



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

पृष्ठ : ४९

शिमला, शनिवार, ११ अगस्त, २००१/२० आवण, १९२३

संख्या : ३२

विषय सूची

भाग-१	वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यालय और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचना। इत्याति	९३१ - ९६६
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भाग-३	प्रधिनियम, विधेयक: और विधेयकों पर प्रबल भर्तीति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यालय, हिमाचल प्रदेश हाई कोर्ट, कार्डिनियल कमिशनर तथा कमिशनर भाइ. इन्हें द्वारा अधिसूचित आदेश इत्याति	
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—	प्रनश्चक	

११ अगस्त, २००१/२० आवण, १९२३ को नमात्त होने वाले सप्ताह में निम्नलिखित विषयों 'हिमाचल राजपत्र, हिमाचल प्रदेश' में प्रकाशित हैं :—

विषय की संख्या	विभाग का नाम	विषय
संख्या १० दी० दी० ए० (६) २/२०००, विनाक ३० जूलाई, २००१।	परिवहन विभाग	मोटरव्हीज अधिनियम, १९६८ (१९६८ का ५९) में दर्शित गणराज्यों की अधिकारियों, प्रधिकारियों को विनियिक करने वाले अधिसूचना इसके अंतर्गत पाठ महित।
संख्या १० ए०८००८००-१५० (१) ३/९८-८, विनाक ८ अगस्त, २००१।	साकारी एवं कराधारण विभाग	हिमाचल प्रदेश माधारण विभाग कर अधिनियम, १९६८ (१९६८ का ३४) की मन्त्रिमंत्री 'ब' में संगोष्ठन हेतु प्रस्ताव इसके प्रत्येकी पाठ महित।
संख्या १० ए०८००८००-१५० (१) ३/९९ (६) (१), विनाक ८ अगस्त, २००१।	-तर्जीव-	हिमाचल प्रदेश माधारण विभाग कर अधिनियम, १९६८ (१९६८ का ३४) में संगोष्ठन वाले अधिसूचना इसके प्रत्येकी पाठ महित।
संख्या १० ए०८००८००-१५० (१) ३/९९ (६) (२), विनाक ८ अगस्त, २००१।	-तर्जीव-	हिमाचल प्रदेश माधारण विभाग कर अधिनियम, १९६८ में संगोष्ठन वाले अधिसूचना इसके प्रत्येकी पाठ महित।

भाग-1—वैधानिक नियमों को छोड़कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं हत्यादि हिमाचल प्रदेश हाई कोर्ट

NOTIFICATION

Shimla, the 27/30th July, 2001

No. HHC/GAZ/14-58/75-X-15484.—The result of 38th Departmental Examination of the Subordinate Judges (Members of the Himachal Pradesh Judicial Service) held in June 2001, is hereby published for information of all concerned as required under sub-rule (ix) of Rule 4, Part-III-C of the Himachal Pradesh Judicial Service Rules, 1973 read with Rule 17(x) of the Himachal Pradesh Judicial Service (Departmental Examination Rules, 1976.

By order,

SURJIT SINGH,
Registrar General.

ANNEXURE-A

FINAL

RESULT OF 38TH DEPARTMENTAL EXAMINATION HELD IN THE MONTH OF JUNE, 2001 FOR THE MEMBERS OF HIMACHAL PRADESH JUDICIAL SERVICE

Note :—“WITH CREDIT (WC)” means passed by obtaining 3/4th of the maximum marks, “HIGHER STANDARD (HS)” means passed by obtaining 2/3rd of the maximum marks, “LOW STANDARD (LS)” means passed in the lower standard by obtaining 50% marks. “A” means ‘Absent’ and ‘F’ means “Fail”.

Sl. No.	Name	Roll No.	Group-I Criminal Law (120 marks).	Group-II Civil Law (120 marks)	Group-B. Revenue Law-I & Revenue Law-II (120 marks each 240 marks).	Group-C. Accounts (150 marks)	Group-D Constitutional Law (100 marks)	Remarks
1.	Shri Aman Sood	601	90 (WC)	—	—	—	—	—
2.	Shri Jia Lal	602	84 (HS)	68 (LS)	—	—	—	—
3.	Shri Barinder Thakur	603	—	68 (LS)	—	—	—	—
4.	Shri Piar Chand	604	89 (HS)	—	—	—	—	—
5.	Shri Hans Raj	605	82½ (HS)	—	—	—	—	—
6.	Shri Pawanjit Singh	606	80 (HS)	—	—	—	—	46 (F)
7.	Ms. Jyotsna S. Dadhwal	607	80½ (HS)	—	—	—	—	—
8.	Shri Madan Kumar	608	—			106.66 (HS)	—	—
9.	Ms. Aparna Sharma	609	80 (HS)	76 (LS)	25 80 } 105 (F)	99 (LS)	58 (LS)	
10.	Ms. Anuja Sood	610	73 (LS)	74 (LS)	39 73 } 112 (F)	92 (LS)	50 (LS)	

Sd/-
Superintendent,
Dept. Examination Committee.

Sd/-
(SURJIT SINGH),
Secretary,
Dept. Examination Committee.

हिमाचल प्रदेश सरकार

PERSONNEL DEPARTMENT
(Secretariat Administration Services)

NOTIFICATIONS

Shimla-2, the 30th April, 2001

No. Per (SAS-I) B (2)-3/98-1.—The Governor, Himachal Pradesh is pleased to order the promotion of the

following Supdt. Grade-II to the post of Section Officers in the pay scale of Rs. 7220—11000 plus Rs. 400/-per month Secretariat Allowance purely on temporary basis against leave/resultant vacancy with immediate effect:—

1. Shri Sada Ram
2. Smt. Madhu Bala
3. Shri Mohan Lal Sharma

2. The above promotion is subject to the final decision of the O. A. No. 4/88 filed by Shri Bodh Raj & Others

and O. A. No. 161/88 filed by Shri Jyoti Swaroop & Others in the Hon'ble Himachal Pradesh Administrative Tribunal.

3. The above temporary promotion shall not confer any right upon the officer for regular promotion continuation or seniority against the post of Section Officer.

4. Consequent upon their promotion as Section Officer they are hereby submit their joining report to this department immediately.

Sd/-
Cominr.-cum-Secretary.

Shimla-2, the 14th May, 2001

No. Per (A-IV)-B (6)-1/2001.—In partial modification of this office Notification of even number, dated 3rd May, 2001, the Governor, Himachal Pradesh, is pleased to order cancellation of transfer orders of the following Himachal Pradesh Administrative Service Officers, with immediate effect, in public interest:—

1. Shri N. S. Suman, H. A. S., A. D. M. Hamirpur.
2. Shri M. L. Damalu, H. A. S., S. D. M., Kullu.
3. Shri V. S. Negi, H. A. S. S. D. M. Ani, District Kullu.
4. Shri Prem Dass, S. D. M. Arki, District Solan.
5. Shri Rakesh Sharma, H. A. S. Joint Secretary (Home) to the Government of Himachal Pradesh.

The Governor, Himachal Pradesh, is further pleased to order that the above officers will continue to function as such on their present posts.

By Order,
A.K GOSWAMI,
Chief Secretary.

(A-I)

Shimla-2, the 4th June, 2001

No. 1-15/73-DP-App. (2001).—The Governor, Himachal Pradesh, is pleased to order that the following IAS/HAS Officers shall also function as State Census Commissioner/District/Sub Divisional Minor Irrigation Census Officers within their jurisdiction in addition to their own duties for the 3rd Minor Irrigation Census Operation in Himachal Pradesh:—

1. Financial Commissioner (Revenue) Himachal Pradesh.	Census Commissioner, Himachal Pradesh.
2. Commissioner, Revenue Himachal Pradesh.	State Minor Irrigation Census Officer, Himachal Pradesh.
3. Deputy Commissioners of all Districts in Himachal Pradesh.	District Minor Irrigation Census Officers of the concerned District.
4. Sub Divisional Officer (Civil).	Sub-Divisional Minor Irrigation Census Officer of the concerned Sub-Division.

Shimla-2, the.....th June, 2001

No. Per (A-I) B (3)-19/84-Vol.III.—The Governor, Himachal Pradesh, is pleased to place services of Dr. Asha Ram Sihag, I. A. S. (HP:83), Commissioner-cum-Secretary (General Administration Department and Secretariat) Administration Department to the Government of Himachal Pradesh at the disposal of TERI on deputation for a period of three years under Rule 6 (2) (ii) of I.A.S. (Cadre) Rules, 1954 on the standard terms and conditions, with effect from 13-8-2001.

Shimla-2, the.....th June, 2001

No. Per(AP)A-B(3)-6/2001.—The Governor, Himachal Pradesh, is pleased to order that Er. B. S. Rana, Chief Engineer (Irrigation & Public Health Department) North Zone, Dharamshala, Himachal Pradesh shall retire from Government service on 31-10-2001 (A. N.) on attaining the age of superannuation.

By Order,
Sd/-
Chief Secretary.

AGRICULTURE DEPARTMENT

NOTIFICATIONS

Shimla-2, the 15th May, 2001

No. Agr.B(5)-3/2000(L-II).—In partial modification of this Department notification No. Agr. B(2)-4/95 dated 13-7-2000, the Governor of Himachal Pradesh is pleased to adjust Shri Brahm Singh Arya Subject Matter Specialist (under order of posting on placement as SMS Dev. Block Shillai, District Sirmour) as Asstt. Seed Testing Officer, Solan against a vacant post with immediate effect in the public interest.

Shimla-2, the 16th May, 2001

No. Agr.B (5)-1/2001.—The Governor, Himachal Pradesh is pleased to order the transfer of the following Agriculture Development Officers with immediate effect in the public interest:—

Sl. No.	Name and Designation	From	To
1	2	3	4
1.	Shri Rajinder Singh, A. D. O.	O/o the Dy Director of Agriculture, Chamba.	Killar vice of Shri Rakshpal ADO.
2.	Shri Rakshpal, A. D. O.	Soil Cons., Pangi O/o the Dy. Section, under Director of SDSCO, Chamba.	Agriculture, Chamba, vice Sl. No. 1.

Shimla-2, the 21st July, 2001

No. Agr.B(5)-3/96.—The Governor of Himachal Pradesh is pleased to transfer and post Shri Ram Parkash Sharma, SDSCO from Ghumarwin to Sub-Divisional Soil Conservation Officer, Reckongpeo, Distt. Kinnaur against a vacant post with immediate effect in the public interest.

Shimla-2, the 16th July, 2001

No. Agr. B (5)-1/2000-L.—The Governor, Himachal Pradesh is pleased to order the transfer of Shri Santosh Kumar Gupta, Agriculture Development Officer from the O/o RPDO, Rajgarh to the O/o DDA, Solan without TTA with immediate effect in the public interest.

Shimla-171002, the 16th July, 2001

No. Agr. B(5)-2/2000(XXII).—In partial modification of this department notification of even number, dated the 4-5-2001, the Governor, Himachal Pradesh is pleased to order the transfer/adjustment of Shri Sanjay Marwah, Agriculture Development Officer (U.T from Sunder Nagar to Deptt. of Agriculture, H.P. Shimla) in Kangoo Circle, Distt. Mandi against a vacant post with immediate effect without TTA in the public interest.

Shimla-171002, the 19th July, 2001

No. Agr. B(5)-1/2001-L.—In partial modification of this department notification of even number dated

In the Court of Smt. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Industrial Tribunal-cum-Labour
Court Shimla

Case No. 106/96.

Decided on 12-12-2000.

Shri Rattan Singh &/o Shri Dasundhi &/o Jamuna
Dasi, District Solan .. Petitioner.

Vs.

M/s. Ballarpur Industrial Unit, Gopal Paper Mills,
Yamuna Nagar, Haryana .. Respondent.

Reference Under Section 10 of the Industrial Dispute
Act, 1947

(12-12-2000) - Present: Shri Hem Raj A. R. for the
petitioner.

Shri V. K. Sharma Adv for the
respondent.

This is a reference received from appropriate Government with regard to the termination of service of the petitioners. During the course of proceedings both the parties have arrived at an amicable settlement which has been placed on record as Ex-PA to Ex. PL and the petitioners have settled their claim in full and final and forgo their claim of reinstatement.

In view of the settlement and statement on oath, the reference is answered accordingly. Let a copy of this order be sent to appropriate Government for its publication.

Sd/-
Seal. (ARUNA KAPOOR),
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour
Court, Shimla.

In the Court of Smt. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. : 16 of 1992.

Instituted on 1-2-1992.

Decided on : 30-11-2000.

Workmen of M/s. Ranger Brewery Ltd., Mehatpur
through Wine Workers Union, Mehatpur, Himachal
Pradesh .. Petitioners.

Vs.

M/s. Ranger Breweries Ltd., Mehatpur, District Una,
Himachal Pradesh .. Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947

For petitioners : Shri P. L. Bery, A. R.

For respondent : Shri Pawan Mutonee, Advocate
with Shri V. K. Gupta, A. R.

AWARD

This reference has been received from the appropriate government. It contains five disputes for determination.

2. In the statement of claim filed by the workmen of M/s. Ranger Breweries Ltd., Mehatpur, District Una through the Wine Workers Union (Registered), Mehatpur, Himachal Pradesh, with regard to the present dispute it is alleged that the management took over the establishment on 15-3-1988. Initially it started a shared management with the old employer but later on took the com-

plete control. It is submitted that the new management steadily eliminating the workers from service and started recruiting workers from outside the state, which gave rise to a dispute between the workers and the management. It is further submitted that charter of demand had already been given to the management by the union. However, on 16-9-1991, the management in league with the hired bad characters created riotous atmosphere in the factory. Thereafter, the union filed a writ petition before the Hon'ble High Court which was disposed of on 20-12-1991 as by then the matter had been referred to the Labour Court.

3. The petitioners have submitted that as per the charter of demands submitted by them, they have demanded salary or par with Panjab National Fertilizers and Chemicals Ltd. (hereinafter referred to as P.N.F.C.) Nayn Nangal, Punjab. It is submitted that earlier even the wages were not paid to them from August, 1989 to March, 1990 and this accumulated salary was paid in eight monthly instalments, but the workers fully cooperated with the management and accepted the salary in instalments. However, the new management started blaming the workers for creating disturbances in the discharge of duties. A just demand was raised by the workers for grant of wages at par with P.N.F.C. It is also submitted that factory has acquired huge profits in the financial year, 1990-91 and instead of 8.33% statutory bonus, they are entitled to 20% bonus on the annual salary.

4. The workers have also sought two pairs of drives as to conventional. Their third demand is for 30% House Rent Allowance, the washing allowance Rs. 30/- per month.

5. Vide this demand charter, the union has also demanded that Rs. 50/- P. M. as Night Shift Allowance be given to them. The further demand of the employees was that the workers should be categorised according to their work, skill, experience, education etc. and promotion and recruitments should be made from the existing employees. It is submitted that on the installation of the new machines, the labourer, who had been retrenched should be called back as per the Industrial Disputes Act. The union also demanded that those employees who are not covered under the I. S. I. Act, should be paid 20% of the salary as Medical Allowance. The workers should also be paid the cycle allowance @Rs. 50/- per month. Reasonable accommodation for canteen should be provided and proper arrangement for drinking water, light, latrine, urinals, bathroom & cleanliness etc., should be made.

6. As regards the second item of the reference, it is submitted that the alleged "leaving out" of "one part of the filling of the bottle" i.e. Chain No. 3 of the conveyor belt should not be allowed. It is alleged that after the submission of the demand charter, the management has devised a plan to create terror in the minds of existing employees and, under the cloak of 'leaving process', the management wanted to hire bad characters to create riot among the workers. It is submitted that this leaving out process of conveyor belt to M/s. Haryana Distillery, Yamunanagar is unjustified and unconstitutional. It is submitted that the apprehension of the union came true when these bad elements from outside created terror in the factory premises on 16-9-1991 and the matter had to be reported to Deputy Commissioner, Una. It is submitted that though this process of leaving itself is unconstitutional, yet even if it is to be carried out, it should be done in a separate premises. The objection that M/s. Haryana Distillery, Yamunanagar was not registered with the Labour authority of the State Government of Himachal Pradesh for payment of excess duty has also been taken. It is also submitted that M/s. Haryana Distillery, Yamunanagar and M/s. Ranger Breweries Ltd., Mehatpur both are being controlled by one management. So this leaving out process was just an eye wash to manipulate and start unfair labour practice.

7. The third item of the reference is that though the State Government has barred the employment of persons from outside the State by creating a Central Employment Cell in the Directorate of Labour and Employment, yet, the management employed 25 number of workers of M/s Haryana Distillery, Yamunagar and suspended 12 workers of M/s Ranger Breweries Limited. It is submitted that both these actions are inter-linked and that occurrence of 16-9-1991 was initiated by the workers of the so called leasing agency. It is also submitted that though a telephonic complaint was made on the same day followed by subsequent complaints on 19-9-1991 and 26-9-1991, yet no case was registered against these persons. Instead the union leaders were arrested. Hence, suspended employees be re-instated by holding the suspension order as non-operative.

7. Regarding fourth item of the reference, it is alleged that the management declared a lock-out of the premises w.e.f. 30-9-1991 though the lock-out has factually started from 19-9-1991 itself, i.e. after the occurrence of dispute on 16-9-1991. It is submitted that the lock-out whereby few workers only were barred from entering the factory premises is discriminatory and is illegal. Hence that the workers should be paid salaries for the lock-out period. Lastly, it is averred that the public notice regarding lock-out dated 10-10-1991 is illegal.

8. In the detailed reply filed by the management, preliminary objection has been taken that the reference with regard to item No. 1 i.e. the demand charter of the union comes within the jurisdiction of the Industrial Tribunal and not to the Labour Court as the employees who are affected by this dispute are more than 100 in number.

9. It is contended that though the board of directors of the company changed, but the employer of the company remained the same. It is admitted that some of the shares were sold and purchased by some other company on 15-3-1988 and some of the Directors joined the team of the Board of Directors. Further that at the time, the wages of the workmen had not been paid. Production was also not going on except intermittently. So new Directors made efforts to motivate the workmen to commence proper working with an assurance that their wages will be cleared by and by. The union agreed and settlement was arrived at on 3-6-1989. Management agreed to raise the wages of workmen by 35%, and the production norms of workers for each working shift was fixed. It is submitted that though the management implemented the agreement but the agreed production norms were not fulfilled by the workmen. The wages were again raised by 12% and then again an increase of Rs. 25/- per month was given on the eve of Diwali in 1990. However, the agreed production as per the agreement was not fully given by the workers. Union again raised a demand in April, 1991 for increase in the wages, which was again acceded to an increase of 17% on basis wages from 1-4-1991 was granted. However, yet again after about a month, union served a demand notice for further increase in wages and allowances, which management was not in a position to consider. It is submitted that at the behest of the union, workmen indulged in violence on 16-9-1991. It is submitted that management approached the Government to refer the demand for adjudication and for prohibition of the strike.

10. In item-wise reply to the claim petition, it is submitted that the workmen are being paid prescribed minimum wages, and wage structure is all-inclusive as per the system of Himachal Pradesh Government. It is further submitted that though wages equivalent to Punjab National Fertilizer Corporation have been demanded, yet the comparative wage structure has not been mentioned nor any justification has been given for the demand of revision of wage structure. It is also mentioned that during the conciliation proceeding, the management offered wage structure equivalent to

H. P. S. I. D. C. Bottling Plant, Mehatpur which is a Government undertaking at Mehatpur, provided the workers give production in accordance with that factory. However, the workmen did not agree to this offer. The management has also enclosed balance-sheet and the profit and loss statement of the company as on 31-3-1991.

11. With regard to the payment of bonus @20%, it is mentioned that the allocable surplus does not warrant the payment of bonus of more than 8.33%. Similarly the demand of Teriot un to m/s, house rent allowance @30%, Night Shift Allowance of Rs. 50/- and Cycle Allowance of Rs. 50/- per month have been termed as unjustified and beyond the financial capacity of the management.

12. As regards the demand of categorisation of the workers, it is submitted that all the workers have been categorised under the categories of highly skilled, skilled, un-skilled and transfers etc. are being affected accordingly. It is also submitted that as far as possible, the workmen of the factory are being promoted to higher position if they are found capable and if the vacancy is there. It is also admitted that all those employees who had been retrenched between the year 1981-82 have been given re-employment till January 1991 and no such employee remains to be re-instated.

13. As regards the demand of paying 20% of wages as medical allowance to the employees who are not covered under the ESI scheme, it is mentioned that all the employees are covered. Lastly as regards the demand regarding shifting of the canteen to a proper building, it is submitted that there is no such requirement that Tea, Snacks and Lunch etc., are being made available in the canteen run by the contractor at reasonable rate. Further that proper and adequate facility is provided about drinking water, latrine and urinals, etc.

14. With regard to item No. 2 of the reference, it is mentioned that the company is running under heavy losses and is not able to discharge the liability of wages, loans and interests of loan and other obligations. Moreover, that the production of the workmen was about 1/8th of the production given by the HPSIDC Bottling Plant and despite motivation, the production had not increased. So the management thought over a device to earn additional income from idle capacity of the Company. After negotiation with the Haryana Distillery, Yamunagar, who wanted to utilize the capacity for filling their own produce on the third chain by employing their own labour to manufacture their own produce. In return, Haryana Distillery had agreed to pay a sum of Rs. 10,000/- P.M. for utilizing the belt and power and further to pay a royalty of Rs. 25/- per case per bottle produced. It is submitted that after finalizing the arrangement, the matter was referred to the Excise Department and their approval was received as it could have generated extra income of revenue to the H. P. Government. It is further submitted that this arrangement was to come in existence on 16-9-1991 in the second half of the general shift. Necessary intimation was sent to the Factory Inspector in advance. It is also submitted that Employment cum-Conciliation Officer was also intimated about the leasing out of the Conveyor Belt and he had desired a copy of the lease deed to confirm that as a result of the lease deed, no employee of the Ranger Breweries is retrenched or adversely affected. The needful was done. However, the union never understood the intentions of the management and as soon as the workmen of M/s Haryana Distillery entered the factory, they were subjected to violence by the workmen of the factory under the influence of the union. The staff members were also beaten when they tried to intervene. It is submitted that leasing out is perfectly constitutional and valid apprehension of the union is un-realistic and various. It is submitted that in the violence which ensued, none of the workers of the union were found to

have suffered any injury, whereas the workmen of M/s Haryana Distillery and officers were beaten by the workmen. It is denied that any loss would have been caused to the workers or Govt. by leasing out the conveyor belt to the Haryana Distillery, as on all the goods dispatched from Ranger Breweries Ltd., the management of M/s Ranger Breweries Ltd., was responsible for the payment of excise.

15. With regard to the item No. 3 of the reference, it is submitted that though the terms of reference are illegal, yet that 12 workmen were found to have indulged in violence in the factory premises and had caused hurt to 25 Workers of M/s Haryana Distillery and the officers of the factory. So they were put under suspension. The orders of suspension was served on them on 18-9-1991 as they refused to accept it on 16-9-1991. It is submitted that the management had unfettered right to deal with the employees with regard to the misconduct as per standing orders of the company, and in exercise of the right had placed these workers under suspension. It is further submitted that after indulgence in violence and as a result of suspension of 12 workmen, the workers resorted to "stay in strike" and did not attend to any work. Meetings were called by the District Administration and a meeting was held on 19-9-1991 in the office of the Deputy Commissioner, Una. The meeting was again re-convened on 25-9-1991 and in that meeting tentative term of settlement was arrived at which was to be signed on 26-9-1991. However, the union did not come forward to sign the settlement on that date. Rather, the union intensified the agitation by shouting abusive and ugly slogans at the gate and also threatened the officers of the company with dire consequences. Apprehending trouble from the workers, the management had no option but to declare lock-out by way of a notice on 30-9-1991 in which it was clearly mentioned that the lock-out will be lifted as and when the workmen join with the undertaking that they have called off the strike. Hence that the management had not done anything illegal. Rather, the union was responsible for the episode of manhandling and stoppage of work and for suspension of the workmen. Hence, the prayer of revoking of suspension is not tenable and legal.

17. As regards item No. 4, it is stated that the lock out declared by the respondent company is not in contravention of section 2(a) of the Industrial Disputes Act. It is stated that section 22(2) is only attracted in case of public utility service, which itself has been defined under Section 2(a) of the Act under clause 1&5 and since the respondent is not a public utility company, hence section 22(2) of the Act is not applicable. It is also submitted that notice which was put by the management clearly stipulated that those persons who gave an undertaking that they are not on strike were at liberty to join the duties. It is also submitted that notice which was put by the management clearly stipulated that those persons who gave an undertaking that they are not on strike were at liberty to join the duties. It is also submitted that the definition of lock-out provides for temporarily losing of the place of employment or the suspension of work or the refusal by the employer to continue to employ any number of person employed by him, which means that the lock-out is partial and is a counter weapon to ask them to call off the strike.

17. With regard to item No. 5 of the reference, it is stated that the workers were advised to call off the strike and resume duties and these facts were also communicated to the Labour Inspector, Una, who also wrote to the union on 24-10-1991 that the management has declared that there is no further lock-out and that many workers have already resumed duty. However, some workers under the influence of Wine Workers Union did not report for duty and continued to remain on strike. This fact was also brought to the notice of the Hon'ble High Court and the Hon'ble High Court directed the workmen to resume duty and thereafter, the strike was called off and about 110 workmen resumed the duty on 25-12-1991. It is submitted that the public notice dated 11-10-1991 is legal and management is not at fault. It is further submitted that factory was

already running under accumulated loss of 75 lacs and has been declared a sick unit by the government under the sick Industrial Companies (Special Provision) Act, 1985. Hence that the claim of the workmen deserves to be dismissed.

18. Replication was also filed. It is submitted that since Labour Court/Industrial Tribunal are being manned by same person, therefore, there is no illegality in the reference. It is further mentioned that already the request has been sent to the Secretary to the Government of Himachal Pradesh to amend the reference. It is further submitted that this reference has been made on the directions of the Hon'ble High Court in CWP No. 701 of 1991 and so if any objection is to be raised, appropriate orders can be taken from the Hon'ble High Court. On merits, it is contended that routine, increase of 15% of wages annually is to be granted by the management and so the increase was given by the management only as per their existing obligation to the employees. It is disputed that the members of the union indulged in beating of the employees of the Haryana Distillery, however, that the matter is sub-judice before the Criminal Court. It is submitted that the workers have the right to the fair wages and since the management has earned profits from the manufacturing, so they are entitled to the bonus at the rate of 20% and also to the wages structure equal to PNFC. It is submitted that Bottling Plant, Mehatpur is manufacturing Country Liquor, whereas the respondents are manufacturing English wine and producing their own raw material. The demand for payment uniform allowance, washing allowance, night shift allowance, cycle allowance etc., have been alleged to be justified. Similarly it is again reiterated that demand for canteen facility, toilet facilities etc. are fully justified.

19. It is also alleged that Haryana Distillery Yamunanagar and Ranger Brewery Ltd., aresister concerns of the respondent management and the leasing out is just an eye wash to import workers from outside. It is also submitted that production was upto the mark and losses shown by the management are imaginary.

20. It is submitted that two brands of liquor cannot be manufactured in one establishment. Further that the Labour Inspector and the Factory Inspector are not authorised persons to decide the complicated matter of excise duty etc. It is also emphasized that the quarrel took place due to the employees of the Haryana Distillery and the management has taken the advantage of the situation, and laid off and suspended employees. It is also contended that suspension allowance is related matter in the reference and the management is evading to pay the suspension allowance. It is submitted that the attending circumstances before the lock-out are also to be taken into consideration and the circumstances showed that the management is using wrong tactics to victimize the workers. Hence that the reference may be answered in favour of the petitioners.

21. From the pleadings of the parties, following issues were framed by my learned predecessor on 17-9-1992 :—

1. Whether the demand notice of the union consisting of 13 demands is legal and justified ?
2. Whether the leasing of conveyor belt No. 3 by the respondents to M/s Haryana Distillery Yamunanagar is legal and justified as alleged ?
OPR
3. Whether the suspension of the workers as a result of leasing belt No. 3 etc. is legal and justified ?
OPP.
4. Whether the lock-out by the management dated 13-9-1991 is legal and justified as alleged ?
OPR.
5. Whether the public notice dated 10-11-1992 by the Management calling upon the workers to

resume duties as a result of lifting the look-out is legal and justified? If so, its effect? OPR.

6. Relief

FINDINGS

22. *Issue No. 1.* The charter of demands was given by the union on 11.6.1991 for settlement of their demands. It has been alleged that those demands were not favourably considered by the management. Present dispute referred to this Court is that whether the demands raised as on 1.6.1991 is justified or not. The demands related to wage structure, payment of bonus, payment of night duty allowance, supply of two Terrycol uniforms, washing allowance, cycle allowance, upgradation of canteen facilities and categorisation of workers. The petitioners claimed parity for the purpose of pay scales with the P. N. I. C. by alleging that the unit is closer to the premises of the respondent. The claim has been rejected by the respondent management by alleging that the financial conditions, circumstances, the paid up capital and turn over of the two concerns are entirely different and there is no comparison between the two establishments. Rather that during conciliation proceedings, officer had been made to give a wage structure equivalent to H. P. S. I. D. C. Bottling Plant, which is situated at Mehatpur itself, provided the workers also give production at par with that unit. However, this offer was not accepted by the workmen union.

23. Regarding the demand of wages equivalent to PNEC, a number of authorities have been relied upon by the respondent. In 1969 (II) 111-791, Hon'ble the Supreme Court has held that factors to be considered are the financial capacity of the concerns and further that for the purpose of calculating the profit, apart from including expenditure incurred for the commercial activities, for development also should be taken into consideration. It was also held that two concerns can only be compared if nature of undertaking is the same and financial position of such concerns is similar. Again 1961 (II) 111-302, Hon'ble the Supreme Court held that "in construing a wage structure with a scale of increments, industrial adjudication has to take a long range view and it has to examine very carefully the impact of the wage structure on the financial position of the concern in question. In view of the facts in the instant case, it was not correct for the industrial tribunal to assume in anticipation, that the company in question would also undertake a new line of business and would prosper in it". Further in considering the question of comparable concerns, "the tribunal should bear in mind all the relevant facts in relation to the problem, extent of the business carried by the concerns, the capital invested by them, the profits made by them, the nature of the business carried on by them, their standing, the strength of their labour force, the presence or absence and the extent of reserves the dividends declared by them and the prospects about the future of their business and these and all other relevant facts have to be borne in mind".

In AIR 1958-SC 578, the Hon'ble the Supreme Court has laid down the guidelines, which are enumerated as under:

"The following are the principles of fixation of rates of wages :

- (1) In the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity;
- (2) The capacity of the industry to pay is to be considered on an industry *cum* region basis after taking a fair section of the industry; and
- (3) The proper measure for gauging the capacity of the industry to pay should take in to

account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the production doubt against the ultimate background that the burden of the employer out of business".

24. Briefly the law laid down by Hon'ble the Supreme Court can be summarised as follows that in order to compare two concerns their reserves, their investment, their profit making capacity, the nature of the work being undertaken by two concerns and other relevant circumstances have to be taken into consideration. Now, coming to the case in hand, though the petitioners have sought parity with the P. N. I. C., Naya Nangal, but there is no evidence on record to show the comparative factors for drawing this parity in their positions. There is no mention of any of the relevant factors of the two concerns. During evidence, one Shri S. K. Datta was examined who brought the record regarding the pay structure of the employees of P. N. I. C. He admitted in cross-examination that this concern is not manufacturing liquor. Further that the turn-over of the factory is 200 crores. There were about 400 workers in 1991 and has also given information that the unit is sick and funds are being given by P. I. I. D. C. on loan. The comparability which should have been brought on record as per the law laid down by Hon'ble the Supreme Court has not exhibited. In these circumstances, it cannot be said the financial conditions or the financial health of the two units is similar and the petitioners are entitled to the pay structure equivalent to P. N. I. C. So, the petitioners have failed to establish that their pay structure should be equivalent to the employees of the P. N. I. C.

25. Moreover, the respondent has alleged that they have accumulated loss of about 74 lacs. Further that it is a sick unit. It has come in the statement of RW-1 that the minimum wages are being paid to the workmen. The statement of RW-1 that after the unit was being run by the present management, pay raise has been given on number of occasions. It is admitted by the PWs that 35% raise was given in 1989, after a settlement between the management and the workers and it was agreed that salary will be increased, but the production standard will have to be met with by the workers. However, as per the respondent, the production standard was not maintained. Again, thereafter the wages were increased by 12% after June, 1989, then increase of Rs. 25/- per month was given on the occasion of Diwali. Further increase of 12% was given on 1-4-90 as the workers had resorted to slow of production. It is stated that on 1-4-1991, 17% increase was given to the workers. However, again on 11-6-1991 a demand for enhanced wages was raised, which the management was not in a position to consider favourably. Though the PWs have stated that some of these raises as have been mentioned by the management were not in fact given, or these were the routine increments to which they were entitled, yet the fact remains that within two months of the last pay raise, demand for raise of wages was again made by the union on 11-6-1991. In the annual report of the management which has been placed on file as Ex. R1 for the year, 1991, the accumulated losses of the management has been shown to be 75.58 lacs which had been carried forward from the previous year. So the pleadings and the evidence which have come on record show it clearly that when the settlement Ex. R1 was arrived at between the management and the union, the financial health of the industry was not good. Somuch so that their previous unpaid wages of nine months could only be paid to them in instalment. This fact corroborates the contention of the management that it had accumulated losses and the financial health of the respondent was not such that it could indulge in further raise of wages within two month of the last raise in pay. It is also not disputed that the respondent had been declared a sick unit. Therefore

In view of these circumstances, the demand of the worker for a raise as per the demand notice dated 11-6-1991 does not seem to be justified.

26. The second demand was with regard to the bonus @ 20% of the salary. It is not disputed that minimum bonus of 8.33% of the salary is being paid to the workers. In order to built up a case for the payment of bonus @ 20% which is the maximum provided under the Payment of bonus Act, the petitioner was required to bring in evidence the figures of allocable surplus. However, no evidence has been produced on behalf of the petitioner in this regard. Somuch so that it has not been denied by any of their witnesses that the respondent concern was running in losses and was declared a sick unit. Therefore, this demand is not justified.

27. The next demand was with regard to the supply of two pairs of tericot uniform. In the petition, it has been mentioned that even if it is considered that the nature of work is not such which justifies the grant of dress to the workers, yet, as per convention of the well placed factories, this facility should be provided to the workers. The demand itself is vague, and does not mention what are the criterians, of the 'well placed factories and if it is a financial health of the company, the petitioners has failed to make out the case for the grant of this facility. Moreover, the "convention" itself has not been proved by the petitioner. So this demand also not justified.

28. The next demand of the petitioner is that they are entitled to house rent allowance @ 30% of the wages. The respondent has mentioned in the reply that the wage structure of the employees is consolidated inclusive of the house rent allowance and is as per the minimum wages Act, which is a statutory regulation and so the petitioners are not entitled to this allowance separately. No doubt, it has been admitted that some of the employees of the factory are being paid house rent allowance, but according to the management, this is only by way of splitting of their pay, so that they can get maximum the benefit regarding tax and P.T.A. etc. Since the petitioners have not been able to show that they are entitled to a separate house rent allowance over and above the consolidated pay structure, therefore, this demand is not only vague, but appears to be unjustified.

29. For the same reason washing allowance @ 30% per month does not seem to be justified specifically in view of the financial health of the industry.

30. Next demand of the petitioners is with regard to the night shift allowance. It is admitted by the petitioners that only a very small number of workers are discharging the duties at night i.e. in three sections of the industry, boiler department, distillery department and pump house. It has been elaborated by the respondent that the duties of these persons keep on changing and no workmen is required to work in the night shift permanently. Night duty is the incident of employment and is required to be performed only by a small section of the workers and that also on rotation basis and not permanently. Therefore, the demand of night shift allowance is not justified.

31. Another demand of the petitioners is that they are entitled to the cycle allowance. No justification has been offered for this allowance also nor it has been proved that similarly situated units are giving this type of allowance to its workers.

32. Petitioners have claimed that canteen is not properly housed. There are no proper arrangement of latrines and drinking water, but except the pleadings, no proof has been produced regarding these allegation. On the other hand, the respondent has stated that the canteen facility is there and is satisfactorily working and a safai Karamchari is there for cleaning the toilets and also that drinking facilities are adequate. Since the onus of proving the justifiability of the demand is on the petitioners and since this onus has not been discharged,

therefore, I do not find this demand to be genuine and justified.

33. As per this demand charter, the petitioners have mentioned that the workers should categorised and the promotion should be made out of the existing staff on the basis of seniority and qualification. The management has however, taken the plea that categorisation as per the law has been made as un-skilled, skilled and semi-skilled categories. It is also mentioned that as and when a person is found suitable, he is promoted to a higher category. The close perusal of the pleadings show that the petitioners want that the workers may be categorised as per their seniority and merit and they should be given a definite status and promotion should be on the basis of seniority and merit. It has not been pointed out that there is any such statute which warrants categorisation on these lines. Minimum Wages Act provides for the categorisation as un-skilled, semi-skilled and skilled categories. There is no chain of promotion from one category to another unless a person qualified for such promotions. Therefore, petitioners have not been able to prove as to how the categorisation as per seniority from one category to the other category i.e. from semi-skilled to skilled can be envisaged. Moreover, there is nothing on record to show that maritorious workers have not been considered for the promotion to the next category. So these allegations are vague. There is nothing on record to show that the persons from outside have been given promotion ignoring the merit and seniority of the members of the petitioner's union. Though an indirect reference has been made that 25 workers from Haryana distillery were employed and 12 workers of the union were sacked but I do not find any op-relation between these two happenings. However, I will be discussing this point later.

34. The petitioners have also alleged that retrenched workmen should be taken back as and when new recruitments are to be made. Again the pleadings lack any specific instance where retrenched employees have not been provided employment as per Law. The respondent on the other hand denied the allegation in the reply as well as during the evidence. They have mentioned that all the retrenched employees of 1981 have been provided employment. It has been mentioned specifically that process of re-employment started in the year 1984 and all the remaining retrenched employees were re-employed in January, 1991. In the replication filed by the petitioners, it has not been mentioned that any such retrenched employee has been left.

35. Another demand of the petitioners is that E.S.I. facilities has not been extended to some of the workers. This contention has again been refuted by the management and it is stated that all the workers are covered under the E.S.I. scheme. Replication to written statement filed by the petitioner again does not mention name of the employee who is not covered by the scheme. Moreover, there is no evidence led by the petitioners with regard to this demand. So the demands which have been raised by the petitioners as per demand charter dated 11-9-1991 are not justified and the reference with regard to this point is answered in favour of the respondent against the petitioners.

36. *Issue No. 2* : The real bone of contention between the management and the union appears to be leasing out of the conveyor belt by the management to M/s Haryana Distillery, Yamunanagar. The contention of the petitioner is that the leasing of the conveyor belt is in fact a misnomer and a ploy to engage the labourers from outside the state, which is against the principles of natural justice and law laid down by the state of Himachal Pradesh. It is submitted that M/s Haryana Distillery is a sister concern of the respondent and the so called leasing is bad-in-law. Firstly because two types of brands of the wine can not be produced from the same premises. Secondly that by leasing out the conveyor belt, effort is being made by the management to import labourers from outside and sack the workers who are already working in the industry. Thirdly that they are

depriving the state of Himachal Pradesh from the excise duty which it would have earned from the production made in the units, and lastly that M/s Haryana Distillery is not registered in Himachal Pradesh. Therefore, the matter enthracts a punitive action by the appropriate authority.

37. The argument of the management is that the production was not being raised to the desired standard despite incentives being given to the workers from time to time and the management was finding it difficult to meet its liabilities. Therefore, after negotiations with the Haryana Distillery, one of the conveyor belts which was lying idle for want of desired production was agreed to be released to M/s Haryana Distillery in consideration of payment of Rs. 10,000/- in addition to Rs. 25/- per crate of production. However that the Haryana Distillery was to get work done from its own workers for which they had given a list and were recruited by the respondent company. It is also submitted that the factory Inspector and the Labour Inspector had been duly informed and in reply to their quarry, it had been confirmed by the respondent that no worker of the respondent will be laid off or retrenched. It is further submitted that excise duty is to be paid on any product which is produced in the premises of the factory and the respondent had the obligation to pay the excise duty to the Government on the produce of M/s Haryana Distillery. So there was no loss of excise duty. Moreover that due permission had been taken from the concerned departments. They had been intimated in advance about the leasing out the conveyor belt and lastly that it is not for the union to raise the objective with regard to the payment of excise duty. Since the right of the workers were not affected by leasing out the conveyor belt, therefore, their objection is totally unjustified.

38. From the pleadings and evidence which has come on record it is undisputedly established that this leasing out process was to start from 16-9-91. However, there were unpleasant riots scenes in the factory leading to strike and ultimately the work by M/s Haryana Distillery was discontinued pending the conflict of interest between the union and the management. The evidence also shows that 12 workers of the Ranger Breweries Ltd. were placed under suspension for committing misconduct inside the factory and for giving beatings etc. to the employees of M/s Haryana Distillery. Cross claims has been made by the petitioners and the respondents regarding the intimation to the police of such riotous scenes within the factory. The contention of the petitioner is that the management had purposely brought some 'gunda' elements in the garb of the workers of M/s Haryana Distillery and had the evil designs of retrenching or terminating the workers of M/s Ranger Breweries as they had been nursing grudge against them for the demand charter which had been submitted by them on 16-6-1991. It is further stated by the PW's that they had intimated the police on 16-9-91 itself that they apprehend unrest in the factory on 16-9-1991. However, that despite the fact that they (petitioners) were given beatings and were manhandled by the workers of M/s Haryana Distillery. The police registered cases against the petitioners workers in connivance with the management. It is also asserted by them that suspension of 12 workers was directly linked with the importing of 25 workers from M/s Haryana Distillery.

38. On the other hand the argument of the respondent is that as per the leasing agreement, 25 workers had been sent by M/s Haryana Distillery who had join in the afternoon of the 16-9-1991. However, due to some mis-understanding of the union, the workers were instigated by some of the office bearers of the union to indulge in manhandling and beatings of M/s Haryana Distillery workers and some officers of the Ranger Breweries Ltd. So, 12 workers were put under suspension on 16th itself. However, they refused to accept the suspension order and they could only be served on 18th. Thereafter the union leaders instigated the workers to strike the work.

Efforts were made by the Deputy Commissioner and the District Administration to resolve the dispute by conciliation, and though a tentative settlement was drafted in pursuance of these negotiations, but nobody on behalf of the union came to sign the draft. Rather they intensified the strike and threatened the workers who wanted to resume work and also officers of the management with dire consequences and also shouted abusive slogans. Hence, the management apprehending unrest in the factory, declared lock-out on 30-9-1991. It is submitted that the police investigation revealed that none of the workers of Ranger Breweries had sustained any injury, whereas the workers of Haryana Distillery had sustained injuries. It is further submitted that the police investigation revealed that it was the workers of the petitioner union who had assualted the workers of M/s Haryana Distillery and so were put under suspension being defaulters. It is also argued that in view of the misconduct, the management was under *bona fide* right to place the workers under suspension and was under obligation to hold a domestic enquiry. It is submitted that suspension allowance was deposited in the Court but the petitioners did not come forward to receive this amount. It is further submitted that after holding domestic enquiry, all these 12 workers were dismissed from service which dismissal was upheld by the Labour Court and has been upheld even by the Hon'ble Supreme Court. The copy of the order of my Ld. Predecessor dated 2-5-1997 has been placed on file and also the orders of the Hon'ble Supreme Court dismissing the SLP have been filed. It is argued that since the dismissal of these 12 workmen for the misconduct has been held to be justified and legal, therefore, it proved that members of the union, were guilty of misconduct and creating riotous situation in the factory premises. And in turn prove that these 12 workmen were not dismissed malafidely or in order to accomodate workers of Haryana Distillery to work on conveyor belt. Therefore, since the leasing of the conveyor belt does not in any way prejudice the rights of the workers adversely, so they are not entitled to raise this dispute and this dispute does not come within the purview of Industrial Dispute.

39. I have considered the arguments of both the sides very carefully. Petitioners only have the right to raise the dispute of leasing of the conveyor belt to some other concern, if it somehow affects their rights of employment and service conditions adversely. The petitioners have not been able to bring on record that as a consequence of leasing of the conveyor belt, their rights were in any manner effected. The only affect which they have tried to prove is that 12 workers were dismissed from service. However, since their dismissal has been upheld by my learned predecessor, *vide* his order dated 2-5-1997 and even by the Hon'ble the Supreme Court, which has upheld the dismissal. Therefore, it cannot be said that the dismissal of these workers was on account of leasing out the conveyor belt to Haryana Distillery. No adverse effect other than this has been either pleaded or proved on record. There is no material to justify the apprehension that once this conveyor belt is leased, it will effect the service conditions of the petitioners adversely.

40. As regard the payment of excise duty and the formalities of leasing out the conveyor belt by way of permission from the concerned department, I think that the petitioner union has no case since the information has been sent to the Labour Department and also under the Factories Act to the Factory Inspector. Therefore, the objection regarding the non observation of the formalities can only be taken by these departments. Once the clearance has been given by the department whether wrongly or rightly, the petitioners cannot agitate the matter. The petitioners have not examined any witness from the department to show that the requisite formalities have not been observed and by non observing of these formalities, their right have been affected. They have examined 2 witnesses.

PW-4 Shri Rattan Chand, who has produced the record regarding the payment of excise duty. However, nothing significant has come out of his statement. He has stated that liquor bottles and spirits are only allowed to be taken out of the factory after the payment of excise duty. PW Karam Chand has produced the record regarding the production of English liquor and country liquor, which is Ex. PW-5/A. His statement also does not prove the case of the petitioners in any manner.

41. Since the formalities regarding the leasing out of the conveyor belt had been allegedly completed by the respondent and there is nothing on record to show that by such leasing out of the conveyor belt their service conditions are being affected, therefore, it cannot be said that leasing of the conveyor belt is in any manner illegal and the respondent is entitled to any punitive action. I, therefore, decide this point of reference against the petitioner and in favour of the respondent.

42. *Issue No. 3.*—The third point of reference is with regard to the employment of 25 workers in the bottling section belonging to Haryana Distillery and dismissal of 12 workmen of M/s Ranger Breweries. However, the discussion on the second point of reference covers a major part of this point of reference and I have already discussed that there is no inter relation between the employment of 25 workers of M/s Haryana Distillery and 12 dismissed workers of M/s Ranger Breweries. Dismissals have been made not on account of employment of 25 workers of M/s Haryana Distillery, but on account of indulgence of these 12 workers in misconduct, which has been proved in the Court of Law. The question whether the riot was initiated by these 25 workers of Haryana Distillery or by 12 workers of Ranger Breweries is a subject matter of proceedings before the criminal court. Whatever evidence has come on record in this case does not establish that it was the workers of Haryana Distillery, who were aggressor or it was a pre-planned manipulative step of the management to oust these 12 workmen. Had it been so, the other workers of M/s Ranger Breweries would have also met with the similar fate. Even otherwise the question of giving relief to 12 workmen on account of illegal dismissal already stands decided upto the level of Hon'ble the Apex Court. Therefore, no pronouncement is to be made in this regard and as regards 25 workmen of Haryana Distillery, there is nothing on record to show that they were employed by M/s Ranger Breweries management in violation of any directions of the State of Himachal Pradesh. Therefore, the point of reference is answered against the petitioners and issue is decided accordingly.

43. *Issue No. 4.*—It has come on record that a lock-out was declared in the factory premises on 30-9-1991. Petitioners have challenged this lock-out and a specific reference has been received as to whether this reference is violative of Section 22 (2) of the Industrial Disputes Act, 1947. Section 22 (2) of the Industrial Disputes Act deals with the lock-out in the public utility service and provides for a notice before the lock-out is adhered to by the management. The public utility service has again been defined under Section 2 A of the Industrial Disputes Act. Respondent does not come under the definition of Public Utility Service and section 22 (2) of the Act only deals with the public utility service. Therefore, this specific reference *vis-a-vis* Section 22 (2) of the Act cannot be termed as violative of the Industrial Disputes Act. Since the respondent is not covered under the public utility service, therefore, the provisions of Section 22 (2) of the Act is not attracted. Therefore, the petitioners are not entitled to any benefit under Section 22 (2) of the Act. Since a specific term of reference has been sent for adjudication and proceedings before the labour court being in the form of an arbitration, the term of reference cannot be extended or expanded *suo-motu*. Hence, I answer this reference that the lock-out is not violative of Section 22 (2) of the Act as the respondent management is not covered under the public utility service under the Industrial Disputes Act.

44. *Issue No. 5.*—The last point of reference also deals with the lock-out and is with regard to the public notice dated 11-10-1991. It is contended by the petitioners that since by this public notice selective lock-out was declared, therefore, it is bad in law. In reply, the respondent has explained the circumstances in which this public notice was issued. It is submitted that the workers were advised to call off the strike and resume duty and this was also communicated to the Labour Inspector, who in turn wrote to the union and advised the union to resume duty. However, union did not respond. This fact was also brought to the notice of the Hon'ble High Court where the writ was pending and as per the directions of the Hon'ble the High Court, the workmen resumed the duty on 25-1-1991. It is submitted that the petitioners have not mentioned as to how this notice on 11-10-1991 is invalid and illegal. It is submitted that the notice made it clear that the workers who disassociate themselves from strike will be allowed to join and resume their work. Further that it took a very reasonable attitude and motivated the workmen to resume work. It is argued that the definition of lock-out only envisages the temporary closing of the place of employment or the suspension of the work which means that the lock-out can be partial with regard to any number of workmen and can be a counter weapon to ask the workmen to call off the strike.

45. The notice which has been challenged and regarding which the reference has been received is not shown to be illegal in any manner by the petitioner. Rather they have not pleaded anything as to why this notice is illegal. The circumstances, which led to the lock-out show that lock-out was on account of strike which was continuing in the factory after the unpleasant scenes on 16-9-1991. The matter was pending before the Hon'ble High Court and the work was only resumed on the intervention of the Hon'ble High Court. Notice was to give fair opportunity to these workers who wanted to work and to disassociate themselves from the strike. This notice was issued by the management to make it clear to the workers that if they discontinued the strike, they were at liberty to join the work. Therefore, the circumstances in which this notice was issued show that notice was a bona fide offer to allow the willing workers to continue the work, and to keep those workers out of the factory who were likely to indulge in creating unrest in the factory. Therefore, this public notice cannot be termed as illegal or violative of the Industrial Disputes Act. In view of these observations, I decide this issue against the petitioners.

RELIEF

46. Keeping in view the aforesaid findings and discussion, I hold that the demand raised by the petitioners union is unjustified and answer the entire reference in negative. Let a copy of this award be sent to the appropriate government for the publication in the Himachal Pradesh Rajya tra in accordance with law.

Announced in the Open Court today this 30th day of November, 2000.

Sd/-

Seal. (ARUNA KAPOOR),
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court, Shimla.

In the Court of Smt. Aruna Kapoor Presiding Judge, Himachal Pradesh Industrial Tribunal-cum-Labour Court, Shimla

Ref No. : 66/94

In re :

1. Mohd. Alias, resident of Village Parnoli, P. O. Machroli, District Yamuna Nagar, Haryana.
2. Intzar Ali c/o Mohd. Alias, Village Parnoli, P. O. Machroli, District Yamuna Nagar, Haryana.

3. Kashmiri Khan &/o Mohd. Alias, Village Parnoti
P. O. Machroli, District Yamuna Nagar, Hary-
ana
Petitioner,

Versus

M/s Saraswati Cements Pvt. Ltd., Moginand, Tehsil Nahani, District Sirmour, Himachal Pradesh through its Manager
Respondents.

Claim under section 10 of the Industrial Disputes Act, 1947

For Petitioner : Shri Hem Raj, A. R.

For Respondent : Shri Rahul Mahajan, Advocate.

AWARD

This reference has been received from the appropriate Government with regard to the termination of services of the petitioners by the management of M/s Saraswati Cements Pvt. Ltd., Moginand, Tehsil Nahani, District Sirmour, Himachal Pradesh. Petitioners alleged that they were engaged by the respondent in 1985 and were dismissed on 9-6-1994. The dismissal has been alleged to be illegal on the ground that there were no charges framed against the petitioner and the charge-sheet if any was invalid and dismissal was malafide. It is also submitted that copies of the documents sought to be relied upon to sustain charges, copies of statements of witnesses or their likely depositions, copy of the preliminary enquiry if any etc. were not supplied to the petitioners to meet the charge. It is also submitted that no opportunity was given to cross examine the witnesses nor any subsistence allowance was paid to them during enquiry proceedings. Lastly that the dismissal order being non-speaking order and devoid of any legal force is liable to be set aside. It is submitted that punishment of dismissal from service is otherwise harsh excessive and disproportionate to the gravity of charges and hence, the reference be answered in their favour.

2. In the reply filed by the respondent, the respondent alleges that the petitioners were the employees of the respondent, however, the petitioners were habitual absences. They used to quarrel with the fellow workers and use to extract money from the co-workers. It is submitted that they were told to improve their behaviour but they did not do so. It is also submitted that they were the office bearers of C. I. T. U. union and used to indulge in un-fair labour practice and use to harrass co-workers.

3. It is submitted that the petitioners were terminated after proper enquiry. They were given opportunity to defend themselves but they failed to do so. It is also submitted that they were charge-sheeted on 19-3-1994 for attempting to damage the entire plant and machinery of the respondent. They remained absent from the work indefinitely without leave application and had intentionally produced bad quality of cement. It is further mentioned that enquiry officer was appointed and after due enquiry report was submitted by him on 30-5-1994. However, petitioners instead of co-operating in the enquiry tried to hinder the enquiry on one pretext or the other. It is also submitted that full opportunity was given to the petitioners to prove their innocence. A photo copy of the enquiry was also submitted alongwith reply. Hence it is prayed that the reference may be answered against the petitioners.

4. On the pleadings of the parties following issues were framed by my I.O. predecessor to 21-12-1994 :

- Whether the termination of the petitioners from service by the respondent is not legally sustainable on the grounds as set out in the claim reference?

- Relief.

5. The petitioners led evidence, however, respondent failed to avail the opportunity of leading evidence despite many opportunities given to them.

FINDINGS

6. **Issue No. 1.** In support of their claim the petitioners Mohd. Alias, Intzar Ali and Kashmiri Khan stopped in the witness box and were also cross-examined on behalf of the respondents. Petitioners have maintained that they were terminated without affording them any opportunity to defend themselves before the enquiry officer. Mohd. Alias mentioned that he was not furnished with the statements of witnesses and articles of charge. He was not paid the subsistence allowance and copy of the enquiry report was not made available to him. Similarly Intzar Ali has mentioned that he was not given a copy of the statements of witnesses, enquiry report, show cause notice or other material relied upon by the management. He also mentioned that he was not allowed to be represented through any defence assistant nor he was paid any subsistence allowance during suspension.

7. Kashmiri Khan has also made a similar statement regarding non-supply of the documents, enquiry report and non-payment of subsistence allowance.

8. In cross-examination Mohd. Alias though admits his signatures on A. D. Ex. R. A. but denied that charge-sheet was served upon him *vide* this document. He admits that a copy of the chargesheet in Hindi Ex. R. B. was received by him. He also mentioned that whole of the enquiry was conducted in his absence. He denied his signatures on the documents which form the part of the enquiry report like Mark-X, Y and Z. He also denies that he received the copy of the enquiry report. He has denied that he was indulging in disobedience and holliganism.

9. Shri Intzar Ali admitted having received the charge-sheet Ex. R. C. and Hindi translation Ex. R. D. and Ex. R. E. He admitted that he participated in the enquiry and mentioned that he was not given any chance to cross examine or to produce the defence evidence. He denied having been given copy of the enquiry report, though he admits that order of termination Ex. R. H was received by him.

10. Shri Kashmiri Khan has admitted that he has received the charge-sheet. He denied that he wanted to burn and damage the transformer of the respondent. He also says that he was participating in the enquiry but was not given any opportunity by the respondent to defend himself. He also mentioned that though he received the copy of the termination order, but he was not given the copy of the enquiry report.

11. The statements of these witnesses though show that charge-sheet was served on them in Hindi, but according to their unrebutted statements on oath, they were not given any opportunity to properly defend themselves. They have specifically mentioned that the copy of the witness statements were not supplied to them. They were not given any defence assistant. They were not given the copy of the enquiry report and they were not allowed to cross-examine the witnesses of the management. In fact they have denied in the cross-examination that any fair opportunity was given to them as per the principles of natural justice to prove their innocence. This assertion of the petitioners could have been rebutted by the management by either examining the Enquiry Officer or providing the documents which they relied upon during the enquiry. However, despite opportunities, respondent failed to avail of the opportunity and their defence had to be closed by the orders of the court. There is nothing on record to show that enquiry report or second show cause notice was given to them. Hon'ble Supreme Court has held in 1991- Lab. L. C-308 —

"Deletion of the second opportunity from the scheme of Art. 311(2) of the Constitution has nothing to do with providing of a copy of the report

to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Art. 311 (2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done by the 42nd amendment which could be taken as keeping natural justice out of the proceedings and the applicability of the rules natural justice to such an enquiry is not affected by the 42nd amendment. Therefore, supply of copy of the inquiry report along with recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of copy thereof. The Forty-Second amendment has not brought about any change in this position".

Again the Hon'ble Supreme Court has held in 1994- Lab. L. C-762 that:

"When the Inquiry Officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the Inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice".

Non supply of enquiry report amounts to denying a opportunity to the workman is violative of principles of natural justice and equity. Therefore, the allegations of the petitioners with regard to improper enquiry remained unrefuted and the benefit of same has to be given to the petitioners. Therefore, I have no hesitation to hold that the enquiry conducted by the management is not proved to be just and legal and in consonance with the principles of natural justice as a result the dismissal/termination of the petitioners from employment of the respondent cannot be held to be legally sustainable and so the issue is decided accordingly in favour of the petitioners and against the respondent.

REIEFF

12. Keeping in view the aforesaid findings and discussion, I hold that the dismissal of the petitioners is illegal and unjustified and that the petitioners are entitled to re-instatement with seniority and full back wages. Let a copy of the award be sent to the appropriate government for its publication in the Himachal Pradesh Rajpatra in accordance with law.

Announced in the open Court today the 14th Day of November, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge.

H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

To the Court of Mrs. Aruna Kapoor, Presiding Judge
Himachal Pradesh Labour Court, Shimla

Ref. No. : 6 of 1995

Instituted on : 6-5-1995

Decided on : 25-11-2000

Shri Narpat Rai v/s/o Jindu Ram, Village Mehar, P. O. Landu, District Mandi, Himachal Pradesh Petitioner.

Versus

M. Hawaian Company, Pahar Nagar, Mandi, Himachal Pradesh through its Manager Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Hem Raj, A. R.

For respondent : Shri P. L. Kalath, Advocate

AWARD

This is reference received from the appropriate government regarding the termination of the services of Shri Narpat Ram Driver by M/s Hawaian Company, Mandi Petitioner has alleged in the claim petition that he was engaged as a workman in 1988 on the monthly wages of Rs. 550/- which were later on increased to Rs. 600/- in 1989 and he worked in such till February, 1994. However, on 22-2-1994, his services were terminated without assigning any reason. It is submitted that his termination is illegal, unjustified, so, he raised the Indust. I. Dispute as the matter could not be decided by the Conciliation Officer and was referred to this Court. Petitioner has claimed that he may be re-instated in service as he was terminated without any notice, retrenchment compensation and in violation of Section 25-J of the Industrial Disputes Act, 1947. It is also submitted that he is entitled to all the benefits of service retrospectively.

2. In the reply filed to the claim petition, it is submitted that the petitioner was a domestic servant with a member of the family of the respondent and that he was never on the roles of the factory. Therefore, he being not a workman under the Industrial Disputes Act nor there being any dispute between the workman and the employer, the reference requires to be answered against the petitioner. It is also submitted that since there was no relationship of employer or employee nor the services were allegedly terminated by the respondent, therefore, there is no question of notice or paying of retrenchment compensation.

3. By way of pre-objection, it is submitted that the reference has been sent mechanically by the Government without application of mind. Hence, the petitioner not being a workman nor there being any dispute in terms of the Industrial Disputes Act, the reference may be rejected against the petitioner.

4. On the pleading of the parties, my learned predecessor framed the following issues on 4-12-95:

1. Whether the termination of services of the petitioner is illegal and contrary to the provisions of Industrial Disputes Act, as alleged? OPP.
2. Whether the petitioner does not fall under the definition of a workman as defined under Section 2 (j) of the I. D. Act? OPR.
3. Relief.

FINDINGS

5. Issues 1 & 2:- Since the legality and illegality will depend on the status of the petitioner as workman, therefore, both these issues are required to be discussed jointly.

6. The simple case of the petitioner is that he was employed in the factory and has been terminated without

serving any notice or paying the retrenchment compensation. The defence of the respondent is of total denial. It is asserted that the petitioner was not the employee of the factory and therefore, there is no relationship of employer and employee. So the question of termination, giving any notice or retrenchment compensation does not arise.

7. Petitioner has stated on oath that he was engaged as driver by the respondent in July, 1988 and remained with the respondent till February, 1994 and during this period, he had completed uninterrupted service of more than 240 days in each calendar year. He further says that his services were terminated without notice and retrenchment compensation. He has mentioned in the cross-examination that he was appointed verbally. However, he admits that no attendance card was given to him and that his presence used to be marked in the factory by the official of the factory. He also mentioned that during employment he was driving Car No. PPR-5850 and thereafter, Car No. PUR-1. Both these vehicles were in the name of Shri Harjinder Singh, who was the owner of the factory. Suggestion was given that these cars were meant for the personal use of the wife of the owner and not for the use of the factory. In the last line of the cross-examination, he has stated that provident fund used to be deposited by him though he does not remember the provident fund number.

8. Petitioner has also examined Shri Farman Chand who was the Manager of the Respondent. He has admitted his signatures on Ex. P.C., which is a certificate issued by the Manager of the respondent company certifying that the petitioner was working as Driver in the establishment of the respondent w. e. f. November, 1990 to February, 1994. He has also mentioned that provident fund of the petitioner was being deducted by the respondent. In cross-examination he has mentioned that petitioner was a part-time employee of Mrs. Kartar Kaur wife of the owner of the respondent company and he used to drive vehicle of Mrs. Kartar Kaur, but the salary used to be paid by the factory.

9. In rebuttal of this evidence Shri Surjit Singh one of the partners of the respondent company has stepped in to the witness box and mentioned that petitioner was engaged by his mother as her driver and that vehicle was owned by her in her personal capacity. He has also mentioned that the factory workers are only employed on the basis of a written appointment letter. He has exhibited attendance registers of the workman from 1990 to 1994, which are Ex. R-1 to Ex. R-4 and that the name of the petitioner does not figure in any of these registers. He however, admits in the cross-examination that the workman of the factory are the members of the E. P. F. scheme, but he denies that the petitioner is a member of that scheme. He was shown the P.F. booklet Ex. P.A. regarding which he has expressed his ignorance. He admits that Shri Farman Chand is his employee since 1981-82 and that he manages the office of the factory. He has expressed his ignorance about the initials of Shri Farman Chand on Ex. P.C. Though he admits that Ex. P.C. is on the writing pad of the respondent company under their letter head.

10. This is the entire evidence oral as well as documentary on record. The statement of Shri Farman Chand PW-2 is very important. Not only that he was given a clear certificate that petitioner was working in the establishment of the respondent from 1990 to 1994, but he also admits that provident fund was being deducted by the company. In cross-examination, he has tried to depose his statement made in chief, understandably because he is still working with the respondent as Manager. He has mentioned that the petitioner was the part time employee of Mrs. Kartar Kaur and used to drive her vehicle. However, he admits that the salary used to be paid by the factory. His statement therefore, reveals that the petitioner was the employee of the establishment as per certificate Ex. P.C. his provident fund used to be deducted by the company. This

believes the stand of the respondent that the petitioner was a domestic servant or the driver of one of the partners. No doubt in the attendance register, which has been produced, the name of the petitioner does not figure, but the registers does not have any column of the signatures of the workers. Therefore, this register has been maintained by the employer and if this register does not bear the name of the petitioner, he can not be held responsible for that. Moreover, there is a provident fund booklet, Ex. P.A. on record, which bears the seal of the Regional Provident Fund Commissioner and mentioned the number HL/7/123. This booklet has been issued in the name of petitioner Narpat Ram and since the petitioner had taken a specific stand that the provident fund used to be deducted and this was also stated by PW-2 who is the employee of the respondent, it was expected from the respondent to rebut this evidence by bringing their record in evidence and show from the record that no provident fund was being deducted from the account of the petitioner. Non production of this record, therefore, raises a presumption that had this record been produced, it would not have supported the case of the respondent. Similarly the petitioner has asserted on oath that the vehicle was not registered in the name of Mrs. Kartar Kaur, but, in the name of Harjinder Singh one of the owners of the factory. This fact is though denied by the respondent in the statement on oath, but again the record regarding the registration of the vehicle has not been produced. Therefore, with holding of the relevant record draws an adverse inference against the respondent. So, I am of the view that the petitioner was a workman and was working in the factory and was employee of the respondent. Further that he was contributing to the provident fund and was on the establishment of the respondent. However, his services were terminated w. e. f. 22-2-1994 without giving him any notice or retrenchment compensation as the allegations in this regard which have been made on oath by the petitioner have remained unrebuted. I, therefore decide both these issues against the respondent and in favour of the petitioner.

RELIEF

11. Keeping in view the aforesaid findings and discussions, I hold that the petitioner is entitled to reinstatement in service with back seniority. An application has been moved by the Learned AR for the petitioner that the petitioner is now gainfully employed since July, 1999. Therefore, I order that the petitioner will be reinstated in service w. e. f. 18-2-1994 with full seniority and with back wages @33% of the last pay drawn till he was admittedly gainfully employed i.e. upto 30-6-99. The reference is answered in affirmative. Let a copy of this award be sent to the appropriate government for its publication.

Announced in the Open Court today this 25th Day of November, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Labour Court, Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. 126 of 1996

Instituted on : 6-11-1996

Decided on : 3-11-2000

Shri Ramesh Kumar c/o Shri Hem Raj, 9, Bawa Building, The Mall, Shimla-3 .. Petitioner.

Versus

Central Co-operative Consumer Store Ltd., The Mall, Shimla-3 through its Liquidator (Assistant Registrar Co-operative Societies) .. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Hem Raj, A. R.

For respondent : Shri Ashok Sood, Advocate

AWARD

1. This reference has been received from the appropriate government. The question posed is "whether the demand of Shri Ramesh Kumar, Ex-Salesman for his re-instatement by the Liquidator (Assistant Registrar, Co-operative Societies) Central Co-operative Consumer Store, Super Bazar, The Mall, Shimla is legal and justified, if yes, to what relief and compensation Shri Ramesh Kumar is entitled to". The petitioner has mentioned in the claim petition that he was appointed on 3-3-1981 as Salesman and served till 28-8-95. He was dismissed from service without serving any written orders and he only came to know about his dismissal by a notice published in a daily newspaper. So he raised a dispute and despite the efforts of the Conciliation Officer, there was no conciliation. Hence, the reference was made to this Court. It is submitted that no sufficient opportunity was given to the petitioner to file reply to the charge-sheet and he was condemned unheard. It is admitted that on one of the hearings before the Enquiry Officer, the petitioner was unable to appear and thereafter, he was not informed about the date. It is also submitted that the Enquiry Officer acted in a haste and has based his finding on the documents which are not relied upon and are not mentioned in the list of documents. Further that no show cause notice was given to him before passing the dismissal order and that enquiry officer was biased.

2. In the reply filed by the Central Co-operative Consumer Store, Shimla, preliminary objections have been raised that the claim petition is not maintainable as the Co-operative Society is a registered society and S. 72 (C) of the Co-operative Societies Act bars the jurisdiction of the civil Courts to adjudicate in such matters. Further that the Central Co-operative Consumer Store, Shimla has gone into liquidation and Liquidator stands appointed and to the claim of the petitioner is only entertainable by the Liquidator and this Court has no jurisdiction. Further that the Liquidator got the enquiry conducted through Inspector Co-operative Societies and it was conducted in accordance with the service rules and the regulations. Petitioner could have appealed against this order under the provisions of rule 32 of the Standing orders before the Registrar, Co-operative Societies.

3. On merits, it is contended that full opportunity was given to the petitioner to appear and defend himself as he was charge-sheeted for misappropriation of funds while employed as Salesman. It is asserted that full opportunity was given to the petitioner, but he failed to avail the opportunity and that the enquiry was conducted as per the service and conduct rules. Hence that the claim petition deserves to be dismissed.

4. On the pleadings of the parties, my learned predecessor framed the following issues on 20-3-97:—

1. Whether the termination of the petitioner from service is violative of Section 25-F of the I. D. Act, 1947 as alleged ? OPP.
2. Whether the petition is not maintainable as alleged ? OPR.
3. Whether this Court has no jurisdiction to entertain, try and decide the present dispute on the grounds as alleged ? OPR.

5. Issues 2 & 3. — I will deal with Issues No. 2 & 3 first of all as it relates to the jurisdiction of the Court to entertain the reference. It has been argued by the learned counsel for the respondent that respondent society is registered and as per Section 72 (c) of the Himachal Pradesh Co-operative Societies Act, the jurisdiction of the civil courts is specifically barred and the

disputes has to be referred to the Registrar for decision. Therefore, this Court has no jurisdiction to adjudicate the matter. In this regard the Learned A. R. for the petitioner has relied upon the service rules and Standing Orders of the Central Co-operative Consumer Store, Shimla. He has referred to clause 32 sub-clause (ii) which reads that "the employees jointly has the option to refer any dispute for decision under the Industrial Disputes Act, in case they are not convinced with the order of the Registrar". This section therefore, provides that the action of referring of dispute under the Industrial Disputes Act has to be taken jointly by the employees and secondly only in case they are not convinced by the orders of the Registrar. In this case, both these conditions are not fulfilled. The perusal of the Standing orders also show that the Standing orders regulate the service conditions of the employees of the consumer store and the Standing orders are made only to regulate the recruitment, promotions and other conditions of service relating to various posts in the said store. Even otherwise, the Standing orders will not over ride the specific provisions of the Co-operative Societies Act, which bars the jurisdiction of civil Courts specifically.

6. Shri Hem Raj, A.R. has also relied upon the judgement of Hon'ble Punjab and Haryana High Court reported in 197 (2) S. L. R. 599, wherein it has been held that jurisdiction of the Haryana Co-operative Societies Act in an industrial dispute between a co-operative society and its workers has to be referred to Industrial Tribunal set up under the Industrial Disputes Act, 1947. It is also held that if no objection is raised before the Labour Court regarding its jurisdiction, then the plea of jurisdiction can not be allowed to be taken at a subsequent stage. Firstly this authority is under section 102 of the Haryana Co-operative Societies Act, 1984. There is nothing on record to show that section 102 of that Act is analogous to section 72 of the Himachal Pradesh Co-operative Societies Act. Secondly the plea regarding the jurisdiction has been raised before the Labour Court unlike the case which was pending before the Hon'ble Punjab and Haryana High Court. So this authority is of no help to the petitioner. Rather in A. I. R.-SC-2652 where a reference had been made under the Madhya Pradesh Co-operative Societies Act to the Labour Court and the Labour Court had held that the domestic enquiry was initiated, it was held by Hon'ble the Madhya Pradesh High Court which decision has been further upheld by Hon'ble the Supreme Court that the reference under section 10 of the Industrial Disputes Act is excluded in view of the specific provisions of the Societies Act. Hon'ble the Supreme Court has referred to section 55 of the Co-operative Societies Act, which gives the power to the Registrar to deal with the disciplinary matters relating to the employees in the society and it was held that where a dispute relates to the termination of the employees, working conditions, disciplinary action taken by society, the Registrar or any officer appointed by him shall decide the dispute and his decision shall be binding on the society and its employees.

7. Selection 72(c) of the Himachal Pradesh Co-operative Societies Act reads "notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises —

- (a)
- (b)
- (c) between the society, or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society; or
- (d)
- (e)

such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute. There are, in view of the law laid down by Hon'ble the Supreme Court and the specific provisions in the H. P. Co-operative Societies Act, 1971, I am of the opinion that the matter could not have been referred to the Industrial Tribunal and the jurisdiction is specifically barred.

8. Further, it has come in evidence that Central Consumer Co-operative Store, Shimla is under liquidation and the Liquidator has been appointed. So as per the Section 80 of the H. P. Co-operative Societies Act, the Liquidator has stepped into shoes of the Registrar and he exercises the jurisdiction to entertain any appeal of its employees with regards to the service conditions or charges of misconduct. Hence, on this ground as well, the jurisdiction of this Court is barred. I, therefore, decide these issues in favour of the respondent and against the petitioner.

9. *Issue No. 1.*—In view of the findings given on issues No. 2 & 3, the question whether there is any violation of Section 25-F of the Industrial Disputes Act, 1947 cannot be gone into by this Court. Therefore, this issue is decided accordingly.

RELIEF

10. Keeping in view the aforesaid findings and discussion, I hold that this Court has no jurisdiction to try and adjudicate the reference. Hence, the reference is answered in negative. Let a copy of this award be sent to the appropriate government for its publication.

Announced In the Open Court today this 3rd day of November, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
Himachal Pradesh Industrial Tribunal-cum-
Labour Court, Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge
H. P. Labour Court, Shimla

Ref. No. : 21 of 1995.

Instituted on : 18-7-1995

Decided on : 15-11-2000

The Himachal Pradesh State Forest Corporation, Rosin and Turpentine Fractory Workers Union, Bilaspur, H.P. through its General Secretary Shri Kishori Lal . . . Petitioner.

Versus

1. The Managing Director, H.P. State Forest Corporation, Shimla, H.P.
2. The General Manager, H.P. Rosin and Turpentine Factory, Bilaspur, H.P. . . . Respondents.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioners : Shri Hem Raj, A.R.

For respondents : Shri V. D. Khiddta, Advocate

AWARD

This reference has been received from the appropriate government with regard to the justification of the demands raised by the General Secretary of the H. P. Rosin and

Turpentine Workers Union, Bilaspur. In the claim petition, petitioners have alleged that they are the Factory workers and as per the agreement between them and the State Government, they are entitled to the pay and allowances as are payable to the workshop staff of the Railway who are in turn governed by the orders of the Ministry of Railway. It is submitted that the corporation is bound to implement all orders and decisions of the Railway Ministry when it has taken for its workshop staff. However, the management has failed to do so.

2. The petitioners have also mentioned that senior workers are drawing less pay than their juniors. Seniority list has not been prepared as per the rules. The increments drawn by them have not been taken into consideration for the purpose of their pay scales and that the corporation has not upgraded the post as was done in the Railway workshop in the year, 1986 and 1989.

3. The further allegations of the union are that at the time of retirement, death or resignation of any worker a lump sum amount is being deducted by the management from their salary unauthorisedly, which is against the principles of natural justice. It is submitted that one case of this nature is pending before this Court and is titled as *Salig Ram Vs. M. D. State Forest Corporation & others*. Further that directions be issued for not deducting any amount from the retiral benefits of the workers.

4. Petitioners have further alleged that though the terms and conditions of the workers and supervisory staff of the Rosin and Turpentine factories are governed by the rules made by the Railway Ministry for the Railway workshop, but the field and official staff of the corporation is governed under separate bye laws made by the corporation and they are getting the benefit of pay scale and DA on Punjab pattern. Hence, this distinction is against the principles of natural justice and equity.

5. The union has also demanded that the post of factory managers is lying vacant for a number of years be filled as the Mechanical Engineer, who is also looking after the work of Factory Manager is not giving sufficient time for the welfare of the factory workers.

6. The union has also demanded that there are about 40 vacant posts and they should be filled under the recruitment and promotion rules from the daily waged workers. Similarly that posts of Assistant Foreman though were filled, but they have been given the scale of un-skilled workers whereas they are entitled to the pay scales of skilled workers.

7. Union has also demanded that the workers are entitled to all the benefits under the Industrial Disputes Act and Shops and Commercial Establishments Act for the purpose of bonus and leave etc. Lastly, they are entitled to production bonus as the production of the factory has increased.

7. In the reply filed by the management, it is admitted that for the purpose of pay, the factory staff has been linked with the Railway workshop, Jagadhri and on the basis of the agreement entered with them, they are being paid allowances and DA on the Central pattern. It is also submitted that annual increments are being given to these workers. As regards the demand of removing the disparity between senior and junior workmen after preparation of seniority list and taking into the consideration the increments for the purpose of fixing the pay scales, the stand of the management is that all these demands have been dealt with in accordance, with the representations of the petitioners and no such demand is now pending for consideration. I may add here that the petitioners in their rejoinder admitted that the demands listed in para-1 (b), (c) and (d) already stand fulfilled and are not now pending.

9. As regards the upgradation of workers, the management has mentioned that the details of the orders have not been supplied by the workers. Therefore, no comments can be made in this regard. Similarly with

regard to the deductions at the time of retirements etc. it is submitted that no such deduction is being made except in one case & that matter *i. e.* Saligram *versus* Managing Director, Forest Corporation is pending and awaiting decision of the Court.

10. The demand regarding the payment of Punjab pay scale is stated to be un-justified in view of the specific agreement between the union and the management for the payment of wages at par with Railway factory staff.

11. The management has also taken the plea that the post of Factory Manager is not being filled as the post is to be filled on deputation basis from the cadre of H. P. F. S. of the Government of Himachal Pradesh. However that at present charge has been given to the Mechanical Engineer. As regard the posts of Assistant Foreman it is stated that these vacancies have already been filled as per the recruitment and promotion Rules.

12. The management has also mentioned that daily wagers who have completed 10 years of service are being considered for regularisation in accordance with the instruction issued by the H.P. Government but that the workers are not entitled to holidays as per the Shops and Commercial Establishments Act and for production bonus.

13 A detailed rejoinder has been filed. It is submitted that at least 45 workers have suffered a loss on account of non-compliance of the recommendations of the fourth pay commission. The factory workers were entitled to the annual increments from 1-3-1986 whereas they have been given this increments from 1-1-1987. It is also submitted that all documents regarding upgradation have been submitted to the management on 3-9-91 and have also been placed on the file of this case. Similarly as regards recovery it is disputed that recovery is not being made at the time of retirement and direction is being sought that no such recovery be affected.

14. On the pleading of the parties following issues are framed by my Ld. predecessor on 3-10-1996 ;

1. Whether the demands raised by the petitioner workers through their General Secretary is legal and enforceable on the grounds as alleged ? if so, to what benefits they are entitled to ? O.P.P.

2. Relief.

FINDINGS

15. *Issue No. 1.*—The petitioners have only tendered and exhibited the documents in support of their pleadings. Whereas the respondents has examined one witness Shri R. P. Sharma in rebuttal. There is no dispute in between the parties that for the purpose of pay and the allowances petitioners are governed by Jagadhari Railway Workshop Rules. This is admitted by both the parties and documents in this regard has been exhibited as Ex. P.C. This document is dated 18-3-1974 and is continuation of Ex. PB vide which the scales of un-skilled, semi-skilled and skilled workers were notified by the State of HP. In continuation of this order, it was agreed upon between the parties that Annexure-A which is Ex. PC will govern the "transfer of the workers and supervisory staff working in H. P. Government Rosin and Turpentine Factory Nahan and Bilaspur." The first clause of this document is with regard to the pay and allowances and it has been specifically mentioned that the pay and allowances of the factory workers and supervisory staff will be or has been recently fixed by the H. P. Government as per the decision of the Railway Ministry for the workshop staff on the recommendation of the third pay commission. The factory workers and the supervisory staff will continue to be governed for pay and DA as per orders of Ministry of Railways issued for their workshop staff from time to time. It however gives the liberty

to the corporation to frame its own rules with regard to the pay scales for any category as and when it is deemed necessary. So there is no dispute that for the purpose of pay and allowances the petitioners are to be governed by the decision of Railway Ministry and they will get the pay and allowances comparable to the workshop staff. The bone of contention as per the petitioner however is that these pay scales are not being given strictly in accordance with these directions. It has been mentioned that the annual increment which was to be given from 1-3-1986 has instead been given from 1-1-87 which has deprived 45 workers from one annual increment. Though the detail of such workers have not been mentioned year suffice to say that the petitioner are entitled to the annual increments strictly in accordance with the recommendations of the pay commission and as followed by the Railway Ministry with regard to the factory workers at Jagadhari in terms of Ex. P. C.

16. Second demand of the petitioner is with regard to upgradation of the posts. It is vehemently argued on behalf of the petitioner union that upgradation at the rate of 10 per cent of the posts per year is required to be given to the workers. The respondent in their reply has only mentioned that necessary documents have not been supplied so they are not in position to give any comments on the demand. The agreement Ex. P.C. does not say that it will be the duty of the workers or union to procure these document. Since the pay scales are governed in terms of Ex. P. C. therefore, the upgradation of the posts has to be done strictly in accordance with the directions issued by the Railway Ministry from time to time in this regard.

17. There are some documents according to which the re-classification of the Artisan staff in the Railways was ordered and some re-classification of the un-skilled, semi-skilled and skilled workers was done. The order is dated 13-11-1982 and is Ex. P. H. then letter Ex. P. J. is with regard to revision of pay scales of un-skilled, semi-skilled, skilled and highly skilled workers. Another document Ex. PM. is regarding the proceedings of the meeting held on 10-7-1986. The meeting was held in the office of the General Manager, Bilaspur for equating the semi-skilled trade of Rosin and Turpentine Factories Bilaspur and Nahan with that of Jagadhari workshop. This was attended to by the Chairman *i.e.* General Manager Rosin and Turpentine Factory, Bilaspur Shri S. P. Gupta, General Manager, R&T Factory, Nahan, Shri Kashmiri Lal Chanda, General Secretary, Workers Union, Bilaspur and Yash Pal, General Secretary, Workers Union Nahan respectively. The document shows that comparability of the skilled and semi-skilled workers with that of Jagadhari Railway workshop was considered and a list was prepared accordingly. Letter Ex. P. N. is an agenda for the consideration by the service committee and also had an item of re-classification of skilled, unskilled and semi-skilled workers with its full financial implications. Then Ex. P. O. is the letter written by the Managing Director to the General Manager, R&T Factories with regard to the revision of pay scales on the basis of Railway Workshop. It has been mentioned in this letter that the demand of the factory workers has been accepted by the management and 60% of the existing unskilled workers are to be made semi-skilled in the pay scale of Rs. 210—290 and 100% of the semi-skilled workers are to be upgraded as skilled workers in the pay scale of Rs. 260—400.

18. The perusal of these documents shows that comparability of the petitioner union with that of the workers of Jagadhari Railway workshop was not disputed at any stage. Rather some steps were taken for re-classification of un-skilled, semi-skilled and skilled workers as per the instructions of the Railway Ministry. However, the grouse of the petitioners is that so far no such re-classification was done and a direction is required to be issued in this regard by accepting their demands.

19. The evidence which has been led by the respondent is again vague in this regard. No statement has been made with regard to the upgradation in the examination on Chief by the R. W. The reply given by the respondents

also suggests that upgradation to which the petitioners were entitled was not given to them despite there being instructions from the Railway Ministry and despite there being an agreement to give the benefit to the workers of the petitioner union. I therefore, hold that the demand of the petitioner is justified in this regard and they are entitled to the upgradation as per the instruction issued from time to time by the Railway Ministry with regard to the workers of the Jagadhar workshop. The management shall procure all the relevant documents in this regard and should give the upgradation retrospectively i. e. from the date as and when individual worker is entitled to as per the instructions and defray the arrears if any within three months of the publication of the award.

20. The next demand which is being pressed is with regard to the deduction of certain amount at the time of retirement etc. The respondent has though stated that no such deduction is being made, but 4 documents have been placed on record by the petitioner, which are Ex. P. D. to Ex. P. G. They relate to one Shri Ramji who retired as semi-skilled labourer on 31-3-1994 and a sum of Rs. 5936/- has been deducted from his gratuity and leave salary for the reasons that he was granted wrong selections grade. Similarly, a sum of Rs. 24361/- has been deducted on account of wrong grant of pay scale from the total gratuity and leave salary benefit of Rs. 30,413 from Nikka Ram, who retired on 30-4-1994. Latter Ex. PG shows that the pay scale of one Prem Lal was revised w.e.f. 1-8-1978 retrospectively vide the order dated 1-6-1995 and it was ordered that recovery be made from the concerned worker. These documents establish that deductions were being made from the retiral benefits of the workmen.

Shri R. P. Sharma has mentioned that these deductions were not on account of wrong upgradation, but on account of wrong fixation of pay scales at the time of promotion. However, he was unable to point out as to what promotion was given to the individual workers. He also admits that no notice was given to any body prior to these deductions. The action of the management is against the principles of natural justice. A huge amount of money is being deducted from the retiral benefits of the workmen without giving them any of opportunity of being heard. This action appears to be totally unjustified. Moreover, since as per wrong promotion had been given to these workers. Irrespects of the fact that whether promotion was given rightly or wrongly to the individual, he has actually worked on the promotional post and is entitled to the pay scale in that capacity. Therefore, the action of the management in deducting an amount on account of wrong grant of the pay scale from the gratuity and leave payment of the workers is unjustified. Hence the respondent can not make any deductions from this account unless due opportunity is given to the individual workman to explain and put his view point in this regard.

21. Another demand which has been pressed at the time of argument is with regard to the regularisation of the daily waged workers. Again management has agreed in principle that the daily waged workers will be regularised as per the policy of the government on completion of the requisite years of service. The demand of the petitioners is justified. Therefore, the management is to take steps i. e. not later than the three months from the publication of the award to regularise the workers against the vacant posts in accordance with the policy of the government in this regard.

22. The demand of the petitioners with regard to appointment of Factory Manager, grant of Punjab pay scales, grant of production bonus and grant of leave as per the Shops and Commercial Establishment Act, is not justified. The demand regarding the production bonus is governed under the payment of bonus Act and can not be allowed in this reference, without paying the actual income, profit and allocable surplus.

As regards the filling up the post of Factory Manager, it is administrative function of the government. The Punjab pay scales can not be given in view of the agreement Ex. P.C. However with regard to the vacancies

which are there and are required or be filled as per the Recruitment and Promotion Rules, respondent is to take steps in this behalf at the earliest to fill these posts. I, therefore, decide this issue in favour of the petitioners and against the respondents.

RELIEF

23. Keeping in view the aforesaid findings and discussions, I allow the reference partially in favour of the petitioners. I hold that the petitioners are entitled to upgradation as per the instructions issued by the Railway Ministry from time to time and they are also entitled to regularisation of posts. Further I hold that the respondent will not make any deductions from the retiral benefits of the workman unless due opportunity is given to the individual workmen to explain and defend his right. Similarly, the management will take steps for filling up the vacancies as per the R & P Rules. All these directions will be complied with by the management within 3 months of the publication of the award. However, the demand of the union with regard to Punjab pay scales, production bonus, filling up of the post of Factory Manager and grant of leave as per Shops and Commercial Establishment Act are not justified and therefore, to that extent, the reference is answered against the petitioners. Let a copy of this award be sent to the appropriate government for its publication in the H. P. Rajapatra.

Announced in the Open Court today this 15th Day of November, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. : 24 of 1994

Instituted on : 2-4-1994

Decided on : 28-11-2000

Shri Balak Ram son of Shri Chitter Ram c/o Shri J. C. Bhardwaj, Sapron, Solan .. Petitioner.

Versus

Sidhartha Super Spinning Mills Ltd, Nihla Khera, Nalagarh through its Chief Executive.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J. C. Bhardwaj, A. R.

For respondent : Shri Rahul Mahajan, Advocate

AWARD

This reference has been received from the appropriate Government regarding validity of dismissal/termination of petitioner and whether he is entitled to reinstatement or not. As per the petitioner he was working with the respondent M/s Sidhartha Super Spinning Mills Ltd., Nihla Khera, Nalagarh and was the cashier of the union known as Sidhartha Super Spinning Mills, Ltd. which is affiliated to A.I.T. U.C. It is submitted that he was chargedsheeted by the management on false and vague charges in order to curb his trade union activities. A Domestic enquiry was conducted for the name sake and the Personnel Manager who handed over the charge-sheet was appointed as Enquiry Officer. It is submitted that the dismissal order passed by the management on 9-8-1993 was null and void and the enquiry was not in accordance with the recognised principles of natural justice. It is also submitted that extreme penalty of dismissal was not justified and the proce-

ture adopted by the management was not proper. Hence, that the petitioner is entitled to re-instatement with full back wages, seniority and other benefits.

2. In the written statement, in the preliminary objections it is submitted that since the dismissal was on the basis of proper and fair enquiry, so it can be treated as preliminary issue. It is also submitted that the appropriate government has erred in law by making a reference without considering the facts of the case.

4. On merits, it is denied that the petitioner was victimized due to his being a member of the A. I. T. U. C. Union. It is also submitted that enquiry was conducted by Shri Arun Prohit and the dismissal order was passed by Shri J. C. Jain, the Executive Director of the company. It is submitted that the enquiry was fair and proper. Further that the punishment of dismissal was proportionate to the misconduct of the petitioner as he had committed a major misconduct in terms of the certified Standing Orders of the company by taking law and order in his hand. Hence that the reference be answered against the petitioner.

On the pleadings of the parties, my learned predecessor framed the following issues on 30-9-1994:—

1. Whether the dismissal of the petitioner is illegal and unjustified ? If so, to what relief the petitioner is entitled to ? OPP.
2. Whether the enquiry in question, was conducted in a fair and proper manner ? If so, its effect ? OPR.
3. Whether the petitioner is gainfully employed after his dismissal from the employment of the respondent ? If so, its effect ? OPR.
4. Relief.

5. The order sheet dated 30-9-1994 reveals that the respondent was called upon to lead evidence on issue No. 2 first, which was with regard to the enquiry being fair and proper, though the order does not specifically say that it was taken as a preliminary issue. Thereafter, the evidence was led by the parties on this issue and again on 30-12-1995 an order was passed directing the parties to lead evidence on all the issues. However, after 2/3 hearings again *vide* order dated 4-5-1996, it was recorded that since the evidence has been led on issue No. 2 only and before evidence on further issues is examined, the parties be heard on issue No. 2 and thereafter the case remained listed for the arguments on this issue. In between, another application was moved for leading additional evidence on the ground that despite due diligence, evidence regarding misconduct could not be led. However, application was dismissed *vide* order dated 27-11-2000. Respondent thereafter led evidence on issue No. 3, when the petitioner *vide* his statement on A. R. did not lead any further evidence on issue No. 1 and 3.

6. Since issue No. 2 deals with the fairness of the enquiry conducted by the management on the basis of which the services of the petitioner has been terminated. So it will be proper to adjudicate this issue first of all.

FINDINGS

7. Issue No. 2.—The petitioner has challenged the enquiry report on the ground that the person who handed over the chargesheet, also conducted the enquiry and so became a judge in his own case and the enquiry is vitiated. Further that no proper and fair opportunity was given to the petitioner and that the enquiry was against the principles of natural justice. The respondent has disputed these allegations and placed on record the entire enquiry report. It is submitted that as per the standing orders, chargesheet was to be issued by the Personnel Manager and in that capacity, the same was issued. However, thereafter the role of the Personnel Manager ceased and he was entrusted the enquiry. It is submitted that law does not prohibit any such appoint-

ment of Enquiry Officer. It is also submitted that fair opportunity was given to the petitioner. All the proceedings were got signed by him and after the enquiry was conducted, he was dismissed from service by the appointing authority.

8. During the evidence, which was recorded in the Court, stand has been taken by the petitioner that copy of the complaint has not been supplied to him. Secondly that the enquiry report and the proceedings of the enquiry was not made available to him and so he was deprived of the right to explain his conduct *vis-a-vis* the enquiry report. The respondent has not disputed that the enquiry report was not supplied, but, it is vehemently argued that there is no need to supply the enquiry report. Therefore, according to respondent, no prejudice has been used to the petitioner by non-supply of the enquiry report.

9. As regards non-supply of the complaint and enquiry proceedings, it is argued that petitioner was never prohibited from inspecting the record or seeing the documents. Therefore, no prejudice has been caused to the petitioner.

10. The respondent management has submitted lengthy written arguments. Raliance has been placed on the Certified Standing Orders. It is emphasised that the Certified Standing Orders only mentions that the dismissal Order should be passed by Manager after giving the accused an opportunity to offe: any explanation, however, this does not convey the idea of the second hearing or opportunity to explain about the punishment. Rather that the explanation is only to be sought regarding the misconduct alleged against him and his explanation is to be called regarding the misconduct and not regarding the proposed penalty or punishment. Therefore, since the standing order does not contemplate any such opportunity or notice, therefore, non-supply of the copy of the enquiry report is irrelevant. In this regard 1984-Lab. I. C. 864 has been referred. Hence that in the light of this judgment, second notice or enquiry report is not required to be served on the petitioner before imparting the punishment.

11. The law regarding the supply of enquiry report has also been dealt with by Hon'ble the Supreme Court in 1991 Lab. I. C-308. The Hon'ble the Supreme Court has observed that in order to meet the rules of natural justice, the delinquent is entitled to supply of a copy of the enquiry report. The relevant paragraphs is reproduced:—

“Deletion of second opportunity from the scheme of Art. 311 (2) of the Constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Art. 311 (2) has been abolished by amendment the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done by the 42nd amendment which could be taken as keeping natural justice out of the proceedings and the applicability of the rules of natural justice to such an inquiry is not affected by the 42nd amendment. Therefore supply of copy of the inquiry report alongwith recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent

world, therefore be entitled to the supply of copy thereof. The forty-second amendment has not brought about any change in this position".

12. This view has further been supported in 1994 L.R. 102 where again the Hon'ble the Supreme Court has specifically held that a denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the

"When the Inquiry Officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the Inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

"Since the denial of the report of the Inquiry Officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject."

13. So in view of the latest law and interpretation by Hon'ble the Supreme Court, the petitioner is required to be given the copy of the enquiry report before the punishment is awarded by the disciplinary authority. In this case, enquiry was held by Shri Prabir and the order of dismissal was passed by Shri Jain, who was the Ex-Director S/o, in the light of the authorities mentioned above. It violates the principles of natural justice, if the copy of the enquiry report is not supplied to the delinquent irrespective of the fact that Standing orders are silent or do not provide for any such second notice or right of hearing to the delinquent.

14. So on this ground the enquiry conducted by the management is vitiated and is required to be set aside.

15. The other argument with regard to the supply of list of witnesses, documents etc., is concerned. It is alleged by the management that there is no such requirement of providing the copy of the documents. More so when no prejudice is proved. Reliance is placed on 1992 L.R. 1 C 1959 and 1994 C 1 C 505. It is submitted that petitioner has failed to prove any prejudice to him. Therefore it does not violate the principles of natural justice. It is true that petitioner does not mention that non-supply of document prejudiced him specifically especially when he signed the proceeding on day to day basis.

16. With regard to the role of Mr. Purushottam as Personnel Manager and subsequently as Inquiry Officer, the management has relied upon the authority of Division Bench of Hon'ble Bombay High Court reported in 1989 C 341 156. The court ruled that even when the Personnel Manager of the company had issued the chargesheet held the enquiry and passed the dismissed order. It does not vitiate the enquiry, as the Personnel Manager was performing his duties as per the standing orders. So he can not be termed to be a Judge in his own case nor there is any thing to show that he had any personal interest in the matter. On the strength of this authority, it is submitted by respondent that in this case also the punishment was awarded by Mr. Jain and not by Mr. Purushottam. Therefore, without showing that Mr. Purushottam had any adverse interest in the matter, it can not be said that by acting as Inquiry Officer, subsequent to the issuing of the chargesheet the principles of natural justice and fair enquiry was violated. I agree

with the argument of respondent that petitioner has failed to prove how by this act of Mr. Purushottam he has suffered any prejudice. Except pointing out that he being office bearer of the union was victimized, no evidence in this regard has been led. There is nothing to show that Mr. Purushottam in particular was against the petitioner and was prejudiced against him. However, in view of the fact that the enquiry report was not supplied to the petitioner, which amounts to denying him a right to explain his conduct before disciplinary authority, the enquiry is not sustainable and can not be held to be in consonance with the provisions of the principles of natural justice and equity. So on this ground, I hold that the enquiry against the petitioner is not proper and I, therefore, decide this issue against respondent.

17. Issue No. 1 - the petitioner has appeared in the witness box in rebuttal of the statement of the respondent. He has mentioned that he was dismissed on account of the Trade Union activities as he was the Captain of the A.I.T.O.C. Union. He has also tendered the copies of the documents concerning the union, which is Ex. P.1 to Ex. P.4. He has also mentioned the union had published pamphlets in respect of their demand. His contention therefore, is that he was dismissed because of his union activities and not on account of his misconduct. He further mentioned that he was not supplied the copies of the proceedings and was not allowed to engage the Defence Assistant. A suggestion has been given to him that he threatened one Shri Ajit Singh and tried to stab him when he declined to join the union. This suggestion has been denied by him. There is no evidence on record to prove these allegations. However, from the statements of PW.1 and PW.2, it is appeared that the petitioner was the office bearer of the trade union of the workers and had raised certain demands etc. But there is no evidence to show that the petitioner was dismissed on account of his Trade Union activities. Since, the enquiry which has been held against the petitioner is not found to be fair and proper for want of supply of the copy of the enquiry report. Therefore, I return the findings that the dismissal of the petitioner from service is bad in law and decide this issue in favour of the petitioner.

18. Issue No. 3 - Petitioner has stated that he is unemployed after his dismissal. The contention of the respondent on the other hand is that he was gainfully employed. The respondent has examined one witness Shri Ram Singh Pathania, who mentions that petitioner has purchased a truck in the name of his brother and his financial condition is much better. Further that he has constructed a house after his dismissal. The cross-examination of this witness shows that neither he is aware of the number of truck nor has any other proof that the petitioner in fact had become a transporter and he has no proof that any house has been constructed by the petitioner after his dismissal which may establish that his financial condition has improved after his dismissal. So the allegation which have been levelled are without any proof and can not be accepted. The suggestion given by the petitioner is that he is only working in the A.I.T.O.C. union and has no other livelihood. In view of these evidence, I hold that the respondent has failed to prove that the petitioner is gainfully employed to the extent that he is not entitled to the basic wages at all. Therefore, the issue is decided accordingly.

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19. Keeping in view the aforesaid findings and discussion, I hold that the petitioner is entitled to re-instatement with back seniority and continuity of service and in the circumstances, he is entitled to the back wages to the extent of 33% of the salary. He was being paid immediately before his dismissal. The reference is answered in affirmative. Let a copy of this award be sent to the appropriate Government for its publication in the Himachal Pradesh Gazette.

Announced in the Open Court today this 20th day of November, 2000.

Neel

ARTINA KAPOOR,
Presiding Judge,

Himachal Pradesh Industrial
Tribunal & Min. Labour Court, Shimla

In the Court of Mrs. Aruna Kapur, Presiding Judge
Kutchh Pradhikar Lalawant Court, Bhavnagar

Ref. No. 23 of 1994
Instituted on 24/1/1994
Decided on 28/11/2000

Shri Ramzan Mohammad son of Shri Behendroch
(a) Shri J. C. Bhadrao), Saperum, Sardan, Kutchh
Petitioner.

Verdict

Sidhartha Spiper Spinning Mills Ltd. Nihira Khera,
Nalagadh through its Chief Executive.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner: Shri J. C. Bhadrao, A.P.

For respondent: Shri Patel, Mahajan Advocate

AWARD

This reference has been received from appropriate
government regarding validity of dismissal/termination
of petitioner and whether he is entitled to reinstatement
or not. As per the petitioner he was working with the
respondent M/s. Sidhartha Spiper Spinning Mills Ltd.,
Nihira Khera, Nalagadh and was the Captain of the union
known as Sidhartha Spiper Spinning Mills Ltd., which
is affiliated to AITUC. It is submitted that he was
charge sheeted by the management on false and vague
charges in order to curb his trade union activities. A
domestic enquiry was conducted for the same sake
and the Personnel Manager who handed over the charge
sheet was appointed as enquiry officer. It is submitted
that the dismissal order passed by the management on
9.8.1993 was null and void and the enquiry was not in
accordance with the recognised principles of natural
justice. It is also submitted that extreme penalty of
dismissal was not justified and the procedure adopted
by the management was not proper. Hence, that the
petitioner is entitled to reinstatement with full back
wages, seniority and other benefits.

2. In the written statement, in the preliminary objections it is submitted that since the dismissal was on the
basis of proper and fair enquiry, so it can be treated as
preliminary issue. It is also submitted that the appropriate
government has erred in law by making a
reference without considering the facts of the case.

3. On merits, it is denied that the petitioner was
victimized due to his being a member of the AITUC
Union. It is also submitted that enquiry was conducted
by Shri Arun Patel and the dismissal order was passed
by Shri J. C. Jain, the Executive Director of the
Company. It is submitted that the enquiry was fair and
proper. Further that the punishment of dismissal was
proportionate to the misconduct of the petitioner as he
had committed a major misconduct in terms of the
certified standing order of the company by taking law
and order in his hand. Hence that the reference be
answered against the petitioner.

In the pleadings of the parties, my learned predecessor
framed the following issues on 10.9.1994.

1. Whether the dismissal of the petitioner is illegal
and unjustified? If so, to what relief the
petitioner is entitled to? (Opp.)
2. Whether the enquiry is in question, was conducted
in a fair and proper manner? If so, its
effect? (Opp.)
3. Whether the petitioner is gainfully employed
after his dismissal from the employment of the
respondent? If so, its effect? (Opp.)
4. Relief

5. The order sheet dated 30.8.1994 reveals that the
respondent was called upon to lead evidence on issue
No. 1 first, which was with regard to the enquiry being
fair and proper, though the order does not specifically
say that it was taken as a preliminary issue. Thereafter,
the evidence was led by the parties on this issue and
again on 30.12.1999 an order was passed directing the
parties to lead evidence on all the issues. However, after
2/3 hearings again vide order dated 4.5.1996, it was
recorded that since the evidence had led on issue No. 1
only and before evidence on further issue is recorded
the parties to lead on issue No. 2 and thereafter the
case remained listed for the arguments on this issue.
In between, another application was moved for leading
addition evidence on the ground that despite due dilig-
gence, evidence regarding misconduct could not be
led. However, application was dismissed vide order
dated 27.11.2000. Respondent, thereafter led evidence on
Issue No. 1 when the petitioner vide his statement of
A.P. did not lead any further evidence on issue
No. 1 & 2.

6. Since issue No. 2 deals with the fairness of enquiry
conducted by the management on the basis of which
the services of the petitioner has been terminated. So
it will proper to adjudicate this issue first of all.

POSITIONS

7. Issue No. 2--The petitioner has challenged the
enquiry report on the ground that the person who
handed over the chargesheet also conducted the enquiry
and so became a judge in his own case and the enquiry is
vitiated. Further that no proper and fair opportunity
was given to the petitioner that the enquiry was against
principles of natural justice. The respondent has dis-
puted these allegations and placed on record the entire
enquiry report. It is submitted that as per the standing
orders, chargesheet was to be issued by the Personnel
Manager and in that capacity, the same was issued.
However, thereafter the role of the Personnel Manager
ceased and he was entrusted the enquiry. It is submitted
that law does not prohibit any such appointment of
Enquiry Officer. It is also submitted that fair opportu-
nity was given to the petitioner. All the proceedings
were got signed by him and after the enquiry was
conducted, he was dismissed from service by the
appointing authority.

8. During the evidence, which was recorded in the
Court, stand has been taken by the petitioner that
copy of the complaint has not been supplied to him.
Secondly that the enquiry report and the proceedings
of the enquiry was not made available to him and on he
was deprived of the right to explain his conduct vis-a-vis
the enquiry report. The respondent has not disputed
that the enquiry report was not supplied, but, it is
vehemently argued that there is no need to supply the
enquiry report. Therefore, depriving the respondent
no prejudice has been caused to the petitioner by non
supply of the enquiry report.

9. As regards non-supply of the complaint and
enquiry proceedings, it is argued that petitioner was never
prohibited from inspecting the record or seeing the documents.
Therefore, no prejudice has been caused to the
petitioner.

10. The respondent management has submitted
lengthy written arguments. Reliance has been placed
on the certified standing orders. It is emphasised that
the certified standing orders only mentions that the
dismissal order should be passed by Manager after
giving the accused an opportunity to offer any expla-
nation, however, this does not convey the idea of the
second hearing or opportunity to explain about the
punishment. Rather that the explanation is only to be
sought regarding the misconduct alleged against him and
his explanation is to be called regarding the misconduct
and not regarding proposed penalty or punishment.
Therefore, since the standing order does not contemplate
any such opportunity of notice, therefore non-supply
of the copy of the enquiry report is irrelevant. In this
regard 1984 Cal. L. C. 166 has been referred. Hence

that in the light of this judgment, second notice or enquiry report is not required to be served on the petitioner before imparting the punishment.

11. The law regarding the supply of enquiry report has also been dealt with by Hon'ble the Supreme Court in 1991 Lab.-C-308. The Hon'ble the Supreme Court has observed that in order to meet the rules of natural justice, the delinquent is entitled to supply of a copy of the enquiry report. The relevant paragraphs is reproduced :-

Deletion of second opportunity from the scheme of Art. 311 (2) of the constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Eventhough the second stage of the enquiry in Art 311 (2) has been abolished by amendment the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established¹ and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of the imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done by the 42nd amendment which could be taken as keeping natural justice out of the proceedings and the applicability of the rules of natural justice to such an enquiry is not effected by the 42nd amendment. Therefore supply of copy of the enquiry report alongwith recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore be entitled to the supply of copy thereof. The forty-second amendment has not brought about any change in this position.

12. This view has further been supported in 1994- Lab. I-C-762, where again the Hon'ble the Supreme Court has specifically held that a denial of the enquiry officer's report before the disciplinary authority takes its decision on the charge is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice. The observations are :-

"When the Inquiry officer is not the disciplinary authority the delinquent employee has a right to receive a copy of the Inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employees with regard to the charges levelled against him. That right is part of the employees right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

"Since the denial of the report of the Inquiry Officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if be the statutory rules do not permit the furnishing of the report or are silent of the subject."

13. So in view of the later law and interpretation by Hon'ble the Supreme Court, the petitioner is required to be given the copy of the enquiry report before the punishment is awarded by the disciplinary authority. In this case, enquiry was held by Shri Purohit and the order of dismissal was passed by Shri Jain, who was the ex-Director. So, in the light of the authorities mentioned above it violates the principles of natural justice, if the copy of the enquiry report is not supplied to the delinquent irrespective of the fact that standing orders are silent or do not provide for any such second notice or right of hearing to the delinquent.

14. So on this ground the enquiry conducted by the management is vitiated and is required to be set-aside.

15. The other argument with regard to supply of list of witnesses, documents etc, is concerned it is alleged by the management that there is no such requirement of providing the copy of the documents. More so when no prejudice is proved. Reliance is placed on 1992 Lab. I.C. 1959 and 1994 C.R-565. It is submitted that petitioner has failed to prove any prejudice to him. Therefore, it does not violate the principles of natural justice. It is true that petitioner does not mention that non-supply of documents prejudiced him specifically, especially when he signed the proceeding on day to day basis.

16. With regard to the role of Mr. Purohit as Personnel Manager and subsequently as Enquiry Officer, the management has relied upon the authority of Division Bench of Hon'ble Bombay High Court reported in 1989-1-LI.J-156, the Court ruled that even when the Personnel Manager of the company had issued the chargesheet, held the enquiry and passed the dismissal order, it does not vitiate the enquiry as the Personnel Manager was performing his duties as per the standing orders. So he can not be termed to be a Judge in his own case nor there is any thing to show that he had any personnel interest in the matter. On the strength of this authority, it is submitted by the respondent that in this case also the punishment was awarded by Mr. Jain and not by Mr. Purohit. Therefore, without showing that Mr. Purohit had any adverse interest in the matter, it can not be said that by acting as Enquiry Officer subsequent to the issuing of the chargesheet the principles of natural justice and fair enquiry violated. I agree with the argument of respondent that petitioner has failed to prove how by this act of Mr. Purohit he has suffered any prejudice. Expect pointing out that he being office bearer of the union was victimized, no evidence in this regard has been led. There is nothing to show that Mr. Purohit in particular was against him. However in view of the fact that the enquiry report was not supplied to the petitioner which amounts to denying him a right to explain his conduct before disciplinary authority the enquiry is not sustainable and can not be held to be in consonance with the provisions of the principles of natural justice and equity. So on this ground, I hold that the enquiry against the petitioner is not proper and I, therefore, decide this issue against respondent.

17. **Issue No. 1.**—The petitioner has appeared in the witness box in rebuttal of the statement of the respondent. He has mentioned that on account of the Trade Union activities and he was the Cashier of the AITUC Union. He has also tendered the copies of the documents concerning the union, which is Ex. P-1 to Ex. P-4. He has also mentioned that the union had published pamphlets in respect of their demand. His contention therefore, is that he was dismissed because of his union activities and not on account of his misconduct. He further mentioned that he was not supplied the copies of the proceedings and was not allowed to engage the Defence Assistant. A suggestion has been given to him that he threatened one Shri Anjli Singh and tried to stab him when he declined to join the union. This suggestion has been denied by him. There is no evidence on record to these allegations. However, from the statements of PW-1 and PW-2, it is apparent that the petitioner was the office bearer of the trade union of the workers and had raised certain demands etc. But there is no evidence to show that the petitioner was dismissed on account

of his Trade Union activities. Since the enquiry which has been held against petitioner is not found to be fair and proper for want of supply of the copy of the enquiry report. Therefore, I return the findings that the dismissal of the petitioner from service is bad in law and decide this issue in favour of the petitioner.

18. *Issue No. 3.*—The contention of the petitioner is that he is without any employment after his dismissal. However, the respondent has contended that he was gainfully employed as he is working as an agriculturist and also kept some Cattles and is selling the milk. But the cross examination of this witness does not establish that he has sufficient agricultural income or from selling milk. So the respondent failed to prove this issue. I, therefore, decide this issue in favour of the petitioner and against the respondent.

REBUTTAL

19. Keeping in view the aforesaid findings and discussion, I hold that the petitioner is entitled to reinstatement with back Seniority and continuity of service and in the circumstances, he is entitled to the back wages to the extent of 33% of the Salary, he was being paid immediately before his dismissal. The reference is answered in affirmative. Let a copy of this award be sent to the appropriate Government for its publication in the Himachal Pradesh Rajpatra.

Announced in the open Court today this 28th day of November, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Smt. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Industrial Tribunal-cum-Labour
Court, Shimla

Case Ref. No. 88/96

Instituted on 12-8-1996

Decided on 14-12-2000

Kanshi Ram son of Shri Narmi Lal, resident of Village Chigaon, District at Kinnaur, Himachal Pradesh

— Petitioner.

Versus

1. Himachal Pradesh P. W. D. Division Moorang Tehsil Nichar, District Kinnaur, Himachal Pradesh, through its Executive Engineer.

2. Himachal Pradesh P. W. D. Sub-Division Moorang, Tehsil Nichar, District Kinnaur, Himachal Pradesh .. Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

AWARD

1. This reference has been received from the appropriate Government regarding the termination of service of Shri Kanshi Ram in contravention of section 24-F of the Industrial Disputes Act, 1947. The petitioner alleged that he was appointed as Driver on daily wages *w. e. f.* 1-2-1995 by the H. P. P. W. D. Division Moorang and he worked as such till 1-6-1996 continuously and uninterrupted. However on 1-1-1996 his services were terminated by the respondent without assigning any reason or without serving any notice etc. Industrial dispute was raised by him. However no conciliation could be arrived at so the matter was referred to this Court by the Government. It is prayed that he be reinstated in job with full back wages and seniority and other incidental benefits.

2. In the reply filed by the respondent it is mentioned that the petitioner worked till 31-5-1996 though he has

some broken period of absence in between. The details of the man days has been supplied as per annexure-A. It is submitted that the petitioner worked as Driver from 1-2-1995 to 31-5-1996 and thereafter he was asked to perform the duties of Air Compressor Operator for which the muster-roll was issued, but he did not attend to his duties. It is also mentioned that the wages of Driver and that of Air Compressor Operator are equivalent to each other.

3. It is also submitted that the petitioner was not discharging his duties to the satisfaction of his superiors and he was even held guilty for an accident of Truck No. HPA-965 belonging to the department. It is submitted that enquiry was ordered by the Deputy Commissioner and the enquiry officer *i. e.* Sub-Divisional Magistrate Kalpi had conducted the enquiry in to the matter. Further that a loss of Rs. 40,000 had been caused to the department by this accident. It is also submitted that the Assistant Engineer has also written to the Executive Engineer that the petitioner was not performing his duties satisfactorily. Hence an alternative offer was made to him to act as Air Compressor Driver, but he did not join duties. It is further submitted that no retrenchment was ordered. So the question of payment of retrenchment compensation does not arise. It is also submitted that a recovery of Rs. 13,333/- has also to be made from the petitioner in view of the enquiry report regarding the accident of Truck No. HPA-965. Hence that the petitioner be directed to work as Air Compressor Operator and petition be dismissed.

4. On the pleadings of the parties, my Learned predecessor framed the following issues on 11-8-97:

1. Whether the termination of the service of the petitioner by the respondent is violative of section 25-F of the Industrial Disputes Act, 1947 as alleged ? .. OPP
2. Relief.

5. Conciliation was also tried in between. However it did not succeed. Thereafter the respondent failed to appear and respondent was proceeded against *ex parte* and so respondent evidence could not be recorded due to their absence.

FINDINGS

6. The petitioner has stepped in to witness box himself and has mentioned that he was appointed as Driver on 1-2-1995 and worked as such till *Ma.*, 1996. He also mentioned that in September 1995 while he was driving a jeep and reached at a place Thopan, border hit the jeep from the front and he sustained injury. On account of this injury he remained admitted in hospital at Recon Poo and thereafter at Shimla. He has exhibited the record regarding his illness which is Ex. P-1 and P-2. He has mentioned that his job was terminated abruptly and no notice was given to him about retrenchment nor any enquiry was conducted against him.

7. In the cross-examination he was mentioned that he was threatened by the respondent to drive compressor machine or otherwise his services will be terminated. He has denied that any accident took place of any such truck during his tenure. He has also denied that a muster-roll was issued in his name for compressor operator and has volunteered that he did not know the job of Compressor Operator. He has also mentioned that he was given a certificate by the Assistant Engineer that he is certified to drive heavy as well as light vehicle which certificate has been exhibited by him as Ex. P-3.

8. Admittedly petitioner was working as Driver *w. e. f.* February, 1995 to May, 1996. Annexure A submitted by the department alongwith the reply proves that petitioner had completed more than 240 day in a calendar year preceding his retrenchment or leaving the job. Though no evidence has been led by the respondent yet their reply shows that the work of the petitioner was not found satisfactory and he was offered an alternative

job on the same wages. This fact has been denied by the petitioner in his cross-examination. There is nothing on record to show that any accident of the departmental truck took place in which petitioner was held responsible by enquiry committee. There is also nothing on record to show that his work was not found satisfactory. Assuming that he was not an efficient Driver or was responsible for any accident and then a proper enquiry was required to be held against the petitioner where he was to be given an opportunity of being heard and explain his conduct. His service could not be terminated or retrenched by way of punishment for in-efficient working without holding a department or domestic enquiry. Accordingly no such enquiry has been held or has been placed on record.

9. Now coming to the question of alternative employment as Air Compressor Operator. Again there is nothing on record to show that any such job was offered and it carried the same wages. It is also not shown on record as to what qualification are required for the work of Air Compressor Operator and whether the petitioner was fulfilling those qualifications. From the reply and also from the cross-examination it is clearly established that appointment of the petitioner was as a Driver and as per the certificate Ex. P-3 issued by the assistant engineer petitioner was capable of driving heavy as well as light vehicles. Hence in these circumstances it is not proved that petitioner was inefficient or was responsible for any loss to the department on account of his un-satisfactory driving. I, therefore, hold that by not allowing the petitioner to work as a driver, his services have been retrenched by the department without complying the provisions of section 25-F of the I. D. Act or without holding any enquiry with regard to his in- efficiency and misconduct. I, therefore decide this issue in favour of the petitioner.

RELIEF

10. Keeping in view the aforesaid discussion and findings I hold that the petitioner is entitled to be reinstated in service with full back seniority and back wages to the extent of 50%. The reference is answered in affirmative. Let a copy of this award be sent to the appropriate Government for publication in the official Gazette in accordance with Law.

Announced in the open Court today this 14th day of December, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H.P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge, Himachal Pradesh Labour Court, Shimla

Ref. No. 135 of 1993

Instituted on 7-10-1993

Decided on : 12-12-2000

Shri Anil Verma son of Shri Krishan Dutt Sharma
C/o Shri J. C. Bhardwaj, Sapron, Solan

— Petitioner.

Versus

Shri Raj Kumar, Pro. Sharma Mushroom Farm Chail
and Adarsh Coffee House, Upper Bazar, Chail, District
Solan, Himachal Pradesh .. Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947

For petitioner : Shri J. C. Bhardwaj, A. R.

For respondent : Shri Rahul Mahajan, Advocate.

AWARD

This reference has been received from the appropriate government. The claim of the petitioner is that he was

a workman employed with the respondent as a Salesman-cum-Driver to carry mushroom and vegetables to and from Chail to Chandigarh. Further that he had to attend the affairs of Coffee House at Chail and saw mill owned by the respondent & was being paid wages @ Rs. 800/- per month. However, out of the total amount of Rs. 40850/-, he has only been paid Rs. 8000/- as the respondent had assured him that this amount has been deposited in the bank.

2. The petitioner has also claimed encashment of earned leave, National Holidays and so has prayed that the petitioner be reinstated with full back wages, seniority and other service benefits as he has been terminated by him without compliance of Section 25-F and Section 25-B of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, three preliminary objections have been raised. Firstly that there is no relationship of employee and employer between him and the respondent. Secondly that the respondent has no concern either with 'Mushroom Farm Chail' or 'Adarsh Coffee House' and lastly that the matter is subjudice before the Court.

4. On merits, it is contended that the petitioner was never appointed either as Salesman or Driver. Further that the respondent has no concern with Mushroom Farm and Coffee House at Chail. As regard the Saw Mill, it is contended that the same has been leased out in 1990 and the petitioner was never appointed as a Driver or in any other capacity. It is also denied that the wages @ Rs. 800/- per month was being paid to him or he is entitled to any amount from the respondent.

5. On the pleadings of the parties, my learned predecessor framed the following issues on 2-2-1994 :—

1. Whether the termination of Shri Anil Verma is illegal and unjustified ? If so, to what relief, the petitioner is entitled to ? OPP.
2. Whether the petitioner is entitled to a sum of Rs. 32850/- from the respondent on account of his arrear of wages ? OPP.
3. Whether the petitioner was not employee of the Respondent ? OPR.
4. Relief.

6. Since the basic objection of the respondent is that he is not employer of the petitioner and so the main controversy between the parties is whether there is any relationship of employer and employee between the parties. I will deal with issue No. 3 first.

FINDINGS

7. Issue No. 3. Though the petitioner has claimed that he was employed as Driver-cum-Salesman by the respondent, but the respondent has totally denied this contention. According to him though he had purchased a vehicle in 1989 which was registered as Taxi, but he restricted its use for his personal work. Thereby implying that he was not doing any commercial activity in this vehicle. He has also alleged that he does not own the Mushroom Farm and Coffee House where allegedly the petitioner was working. Lastly, he has maintained that the saw mill where the petitioner alleged that he used to work had been given on leave to a third party since 1990 and so he did not employ any person to work in the Saw Mill. In view of these contentions, the evidence which has been led by the parties has to be appreciated. The petitioner has stepped into the witness box and has exhibited two documents in his statement. First is the demand notice which has been issued to respondent and second is the copy of the bill book, which is Ex. P-2. He mentioned that he joined the respondent on 15-4-1988 and worked till 17-6-1992 @Rs. 800/- per month. Further that he worked as a Driver and used to deliver mushroom to the hotel owners at Shivalik Hotel, Mount View and Yatri Niwas Chandigarh. He has also mentioned that though he has been paid Rs. 8000/-, but a sum of Rs. 32850—still

remains due. He has been given suggestion that respondent did not have any contract for supply of mushroom, which he has denied. He has mentioned that the bill book, Ex. P-2 belongs to the respondent and also mentioned in the cross-examination that he was working as a helper in the Saw Mill and also worked in the Orchard of the Respondent at Dochi.

8. Apart from the oral evidence led by the petitioner, there is no documentary evidence that the mushroom farm or the Coffee House belonged to the respondent and that respondent had directed the petitioner to work in these concerns. On the contrary, the respondent in his statement on oath and also by way of two affidavits, which are Ex. R. A. and Ex. R. B. has tried to establish that Sharma Mushroom Farm belongs to his brother Shri Shiv Kumar exclusively and the respondent has nothing to do with it. Further affidavit Ex. R. is with regard to Addarsh Coffee House at Chail and as per the affidavit given by Smt. Sharda Verma, the same is being run by her with another partner Mrs. Promila Sharma. So, with regard to these two establishments, respondent by way of affidavits has tried to prove that he has no concern with them of hence there is no question of his being the employer of the petitioner, even if, he has worked in these two concerns.

9. As regard the saw mill, the respondent has examined RW-2 Shri Kali Rani, who says that he had taken the Saw Mill on payment of lease money of Rs. 10,000/- per annum from the respondent in 1990, which remained with him till 1993 March. He denied that he ever employed the petitioner in the Saw Mill.

10. The initial onus of proving that the petitioner was the employee of the respondent was to be discharged by the petitioner. However, in view of the objection raised by the respondent in this regard, onus of the issue had shifted on the respondent and by loading the evidence, which has been discussed by me above that onus has been discharged by the respondent. Petitioner has not been able to bring anything on record firstly that he was employed by the respondent on the monthly wages of Rs. 800/-. He has also not been able to prove or rebut the evidence led by the respondent that in fact respondent was the owner partner or proprietor or Mushroom Farm or the Coffee House or was running the Saw Mill at the relevant time. Therefore, the relationship of employer and employee is not established.

11. As regard the vehicle, though admittedly, the respondent had purchased this vehicle as a taxi, but he has asserted that he never plied it commercially and only used it for personal purposes. Petitioner has failed to prove that this vehicle was ever driven by him either for personal use or for commercial use. Though he has mentioned in his cross-examination that his name has been entered as a Driver of the vehicle at Parwanoo barrier, but during his evidence or during the evidence of the respondent, he never confronted the respondent any such record. Though later on, application for additional evidence was moved by him for summoning such record, but that application has been rejected by me *vide* separate order. Moreover, though the respondent had admitted in the cross-examination that he possess the log book of the vehicle and can produce it. Yet, no effect was made by the petitioner to summon that log book to the Court. The bill book Ex. P. B. does not prove that the respondent was the employer of the petitioner. Even if it is accepted that the signature of the petitioner are on this bill book, but the petitioner has failed to prove that respondent was the owner, partner or the proprietor of Sharma Mushroom Farm, Adarsh Coffee House at Chail or that he was running the Saw Mill during the relevant time. Hon'ble the Supreme Court has laid down the law, in this regard in 1957-SC-264. The observations are reproduced as below:-

"The essential condition of a person being workman within the terms of the definition in S. 2 (s) is that he should be employed to do the work in the industry, that there should be, in other

words, an employment of his by the employer that there should be the relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed there can be no question of his being a workman within the definition of the term as contained in the Act. The *prima facie* test for the determination of relationship between master and servant is the existence of the right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant is to do but also the manner in which he shall do his work. The nature or extent of control which is requisite to establish the relationship of employer and employee vary must necessarily from business to business and is by its very nature incapable of precise definition. The correct method of approach, therefore, would be to consider whether having regard to the nature of the work there was due control and supervision by the employer. A person can be a workman even though he is paid not per day but by the job. The fact that Rules regarding hours of work, etc., applicable to other workmen may not be conveniently applied to them and the nature as well as the manner and method of their work would be such as cannot be regulated by any directions given by the Industrial Tribunal, is no deterrent against holding the persons to be workman within the meaning of the definition if they fulfil its requirement. The Industrial Tribunal would have to very well consider what relief, if any, may possibly be granted to them having regard to all the circumstances of the case and may not be able to regulate the work to be done by the workmen and the remuneration to be paid to them by the employer in the manner it is used to do in the case of other industries where the conditions of employment and the work to be done by the employees is of a different character".

12. So, I hold that the petitioner has failed to prove that he is a workman under the respondent. The issue is decided against the petitioner.

13. *Issue No. 1.*—Since the findings on Issue No. 3 has gone against the petitioner, therefore, the question of compliance of Section 25-F and 25-B of the Industrial Disputes Act, by the respondent does not arise. No evidence has been led by the respondent in this regard. However, in view of the findings on Issue No. 3, the issue become redundant and is decided against the petitioner.

14. *Issue No. 2.* Again the petitioner as failed to prove that he was the employee of the respondent on the monthly wages of Rs. 800/- or that a sum of Rs. 32850/- are still due to him from the respondent. Not only that, he has failed to establish the relationship of employer and employee, but he has also failed to prove that he was engaged @ Rs. 800/- per month by the respondent and has not been paid the wages for the relevant period. I, therefore, decide this issue against the petitioner.

RELIEF

15. Keeping in view the aforesaid findings and discussion, I hold that the petitioner has failed to establish the relationship of employer and employee. Hence, the reference is answered in negative. Let a copy of this award be sent to the appropriate government for its publication in the Himachal Pradesh Rajpatra for its publication.

Announced in the Open Court today this 12th Day of December, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. : 11 of 1995

Instituted on : 22-5-1995

Decided on : 18-12-2000

Shri Ramesh Chand s/o Shri Parmod Singh, r/o
Village Dhakrora, P. O. Jalphar, Tehsil Jogindernagar,
District Mandi, Himachal Pradesh .. Petitioner.

Versus

1. Resident Engineer, Shanan Power House, P. S. E. B., Jogindernagar, District Mandi, Himachal Pradesh.
2. Supdt. Engineer, Shanan Power House, P. S. E. B., Jogindernagar, District Mandi, Himachal Pradesh.
3. Secretary, P. S. E. B. The Mall, Patiala, Punjab .. Respondents.

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Dhani Ram, A. R.

For respondent : Ex-parte.

AWARD

Following reference has been received from the appropriate government :—

"Whether the action of the Resident Engineer, Punjab State Electricity Board, Shanan Power House, Jogindernagar, District Mandi, Himachal Pradesh, in terminating the services of Shri Ramesh Chand, Beldar without any notice and employing new persons is legal and justified ? If not, to what relief and amount of compensation, Shri Ramesh Chand is entitled to ?"

2. The workman Shri Ramesh Chand has mentioned in the claim petition that he has worked under the Resident Engineer, Shanan Power House, P.S.E.B., Jogindernagar in the year 1985-86 as daily waged worker and he met with an accident in August, 1986. Further that his services were terminated without any notice or compensation. He was assured that he will be adjusted in due course of time, and though so many other workers were appointed, the petitioner was never given re-employment again. Hence that since his services have been terminated without notice and without compensation, so he is entitled to re-instatement with all benefits and reliefs.

3. In the reply, three preliminary objections have been taken. Firstly that claim is time barred. Secondly that Resident Engineer is not covered under the definition of an employer and thirdly that the petitioner never worked under the Resident Engineer and rather there existed no relationship of master and servant.

4. On merits, it is denied that petitioner ever worked with the respondent and it is submitted that there is no question of terminating his services as he was never the employee of the respondent. Hence that the claim deserves to be dismissed.

5. On the pleadings of the parties, my learned predecessor framed the following issues on 20-2-96 :—

1. Whether the reference is barred by Limitation ? OPR.
2. Whether there never existed relationship or status of a industrial worker and employer between the parties as alleged ? OPR.
3. Whether the termination of the petitioner from service is illegal, uncalled for and not in accordance with law ? OPP.
4. Relief.

6. I will deal with issues 2 & 3 together as they require appreciation of the same evidence.

7. Issues 2 & 3.—The respondent have taken a preliminary objection and has also specifically denied on the merits that the petitioner was ever their employee. Therefore, the onus was on the petitioner to prove that not only he worked with the respondent, but completed mandatory 240 days in the calendar year proceeding his retrenchment. The petitioner while appearing as his own witness has not been able to bring on record any documentary or oral evidence, apart from his own statement that he was working with the respondent. He admits that he has no formal letter of appointment, he does not have any experience certificate and he has no other record to show that he was working under the respondent. His explanation is that respondent never used to issue any such letter or paper disclosing the workman to be an employee under them.

8. The petitioner was again examined by way of additional evidence and he exhibited a copy of an advertisement Mark-A and stated that after this advertisement, he alongwith Ashok Kumar and Bhuri Singh etc., were kept as beldar. The advertisement in a photo copy of some news paper, but neither the name of the news paper nor the date of its publication is made out. The notice is with regard to employment of daily wages contingent work-charged employees and they were advised to apply for job on or before 22-9-1997. By this advertisement, the retrenched workers were told to report for duty within 10 days.

9. This news paper cutting which is neither clear about the date nor the name of the news paper is of little help of the petitioner as it does not prove the case of the petitioner at all. There is absolutely no evidence to prove that the petitioner was ever the employee of the respondent as this onus has not at all discharged by him. It cannot be assumed that the petitioner was working with the respondent and had completed 240 days and was terminated by the respondent. Neither the record regarding such appointment has been called by him from the respondent nor he has produced any such record himself. His oral statement has been rebutted by the Resident Engineer on oath. Therefore, I hold that the petitioner has been unable to prove his employment with the respondent or that he was illegally terminated without compliance of legal provisions. I, therefore, decide both these issues against the petitioner.

10. Issue No. 1.—The respondent has taken the objection that the reference is barred by limitation, though delay in itself is no ground for rejecting the claim of the petitioner, but in this cause, the delay has proved fatal to the case of the petitioner as the record if any of his employment has not been produced due to laps of many years in between. So though legally there is no prohibition prescribed for filing such type of petition, yet in this particular case, the delay had defeated the case of the petitioner. However, I hold that the petition is not barred by limitation as no limitation is provided under the act. Issue is decided in favour of the respondent.

RELIEF

11. Keeping in view the aforesaid findings and discussion, I hold that the petitioner has been unable to prove his employment terminating of service by the respondent. Hence, the reference is answered in negative. Let a copy of this award be sent to the appropriate government for its publication in the Himachal Pradesh Rajpatra in accordance with law.

Announced in the Open Court today this 18th Day of December, 2000.

Seal

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Smt. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. 141/97

Instituted on 5-11-97

Decided on 15-12-2000

In re :

Shri Balwant Singh son of Shri Sobha Ram, r/o Village
Garla Kiartu, P. O. Bharog Bhaneri, Tehsil Paonta Sahib
District Sirmour, Himachal Pradesh .. Petitioner.

Versus

1. The H.P.S.E.B. through its Secretary with headquarters at Shimla.
2. The Executive Engineer, Transmission & Construction, T & C Division, Shakti Nagar, Nahan, District Sirmour, Himachal Pradesh .. Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947.

AWARD

For petitioner : Shri A. K. Gupta, Advocate.

For respondent : Shri S. P. Sharma, A. R.

This reference has been received from the appropriate Government. Petitioner has claimed that he was a daily waged labourer with H. P. S. E. B. Division, Shaktinagar, Nahan from September, 1986 till December, 1988 and had completed 240 days in service. However, his services were terminated without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947 or the Certified Standing Orders. It is also submitted that principles of first come last go was also not followed. Hence that he be re-instated in service with all the incidental benefits like back wages etc.

2. In the reply filed by the respondents preliminary objections that this Court has no jurisdiction, there is no enforceable cause of action and that the claim is belated have been taken.

3. On merits it is contended that petitioner was casual in his work and he abandoned the job himself. Further that since he was not retrenched by the board, therefore, the question of serving notice or paying compensation does not arise. It is prayed that the petition be dismissed.

4. On the pleadings of the parties my predecessor framed the following issues on 8-7-98:—

1. Whether the termination of the petitioner is illegal and bad in view of section 25-F of the I. D. Act alongwith Standing Orders, if so, its effects ? OPP.
2. Relief.

FINDINGS

5. *Issue No. 1.* In order to prove his case, petitioner has stepped in the witness box and mentioned that he had completed 240 days when his services were terminated on 12-4-88. Further that he was not given any notice or retrenchment compensation. He further stated junior like Dalel Singh were retained whereas he was retrenched. He also mentioned that he met the respondents many times, for re-engagement as beldar but to no avail. In cross-examination he maintained that he was regular in his work and never took any leave etc. though he was given fictional breaks. He, however, admits that he did not make any written representation to the board. He mentioned that Shri Dalel Singh was with him and thereafter, shifted to Power House Giri.

6. On behalf of the respondent Shri J. K. Sharma, Assistant Engineer, P & M Sub-Divisional Daula Kuan

has appeared in the Court. He has exhibited the chart of the man days of the petitioner which is Ex. R-1. In cross-examination he has mentioned that his services were not terminated but he did not report for duty after 12-4-88. He however, admits that there is no noting on the record regarding the abandonment of the job by the petitioner. He also admits that he was not served with any notice at the time of fresh recruitment. He qualified that no fresh recruitment was made as the Division was transferred to Jassur. He showed his ignorance that fresh appointment may have been made at Jassur.

7. The chart of the man days R-1 shows that preceding the retrenchment of the petitioner he had completed 240 days in one calendar year. Therefore, in case of termination or retrenchment he was entitled to the compliance of the provisions of section 25-F of the I. D. Act, which admittedly has not been done by the respondents.

8. The plea of the respondent is that the petitioner himself abandoned the job. However, there is nothing on record to suggest this fact. There is no note on the file regarding the abandonment, no notice has been issued to the petitioner for joining in case he was found wilfully absent nor any enquiry was conducted in his absence. Moreover, the RW who has been examined was not the concerned S. D. O. in 1988 and so can not have any personnel knowledge of the circumstances in which the petitioner was made to leave the job. No witness who was serving at that time has been examined to prove the factum of absence from job. Moreover it has come in the statement of R. W. that this division was transferred to Jassur, meaning thereby that it is possible that the respondent disengaged the labour at the time of shifting of the place of work to Jassur. All these factors point out that it was not a case of abandonment, rather the services of the petitioner were retrenched.

It has been argued that the petition is belated. Petitioner has mentioned that he met the officers of the respondent and sought re-instatement, but he was not re-employed. He has admitted that he did not give any written representation. Therefore, in view of the statement of the petitioner that he kept on trying to get engaged it can not be said that the petition was belated or delayed. Therefore, this objection of the respondent has no merit. I, therefore, decide this issue in favour of the petitioner and against the respondent.

RELIEF

9. Keeping in view the aforesaid findings and discussion I hold that the petitioner is entitled to be re-instated in service with back seniority. However, he is only entitled to wages to the extent of 20% of the wages last drawn by him. Reference is answered in affirmative. Let a copy of this award be sent to the appropriate Government for its publication in accordance with law.

Announced in this Open Court today this 15th day of December, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H.P. Industrial-Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No. 132 of 1997

Instituted on 5-11-97

Decided on 15-12-2000

1. Shri Jai Pal son of Shri Munnu Ram, r/o Village Haripurkhol, P. O. Haripurkhol, Tehsil Paonta Sahib, Sirmur.
2. Shri Ram Singh son of Shri Jeet Singh, r/o Village Kodewala, P. O. Haripurkhol, Tehsil Paonta Sahib District Sirmur. .. Petitioner.

Versus

1. The H. P. S. E. B. through its Secretary with headquarters at Shimla.
2. The Executive Engineer, H. P. S. E. B. Division, Paonta Sahib, District Sirmaur, Himachal Pradesh

. Respondents.

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioners : Shri A. K. Gupta, Advocate.

For respondents : Shri S. P. Sharma, A. R.

AWARD

This reference has been received from the appropriate government. The claim of the petitioners Jai Pal and Ram Singh is that they worked with H.P.S.E.B. Division, Paonta-Sahib from April, 1985 to 1989 when their services were terminated without paying any compensation etc. Further the principle of last come first go was not followed at the time of disengagement of their services. It is submitted that the certified standing orders have also been violated as the petitioners were entitled to a notice and compensation on completion of 240 days.

2. In reply filed by the respondent preliminary objection that there is no enforceable cause of action, the petition is not maintainable and that petition is hit by laches and delays have been taken.

3. On merits, it is submitted that Jai Pal was engaged on 21-11-1985 and not in April, 1985 and worked till November, 1988. He was casual in his work and official duties. However, it is contended that the exact man days of both the petitioners are as per Annexure R-1 and R-2.

4. It is also contended that the petitioners were not terminated by the respondent, rather they left the job of their own. So they are not entitled to re-instatement or any other benefit.

5. On the pleadings of the parties, my learned predecessor framed the following issues on 12-8-1998:—

1. Whether the termination of the petitioners is illegal and have not complied the provisions of Section 25-F of the I. D. Act, 1947 and also Standing Orders Act ? If so, its effect OPP.
2. Whether the claim petition of the petitioners is barred by delay and laches ? If so, its effect ? OPR.
3. Relief.

FINDINGS

6. Issue No. 1. Both the petitioners have stepped into witness box and have mentioned that they worked for more than 240 days in the calendar year before the retrenchment and were not given any notice or retrenchment compensation. Further that their services were terminated in the year, 1988. It is also mentioned that two persons Bakhshi Ram and Guman Singh have been retained and are still working. Further that though new persons were employed, but the petitioners were not called by the department. It is also mentioned that they kept on meeting the respondent for re-employment, but to no avail. Lastly that they did not leave the jobs on their own.

7. In the cross-examination, they have mentioned that no written orders of retrenchment was given to them nor they made any written representation to the respondent.

8. Shri Mahesh Singh, S. D. O., H. P. S. E. B. Dhaulakuan who appeared on behalf of the respondent has mentioned that man days of actual work done by the petitioner is reflected in Annexures R-1 and R-2

and that they abandoned the job themselves and were not retrenched. In cross-examination, we mentioned that he joined the present posting four months back and made the statement on the basis of the record and also on the basis of the statements of co-workers. He admitted that there is nothing in writing in the record that the petitioners abandoned the job themselves. He has mentioned that he sought the information from Mr. Madan who is an old employee. He also admitted that no notice of absence was given to the petitioners though their absence amounted to misconduct.

9. The chart of man days Ex. R-1 and Ex. R-2 discloses that more than 240 days were completed by the petitioners preceding their retrenchment/disengagement. The only question which remains to be answered is whether the petitioners abandoned the job on their services were terminated. The petitioners have maintained on oath that they never left the job themselves rather they were terminated by oral directions, whereas the respondent has produced the SDO who is currently working in this Sub Division and has no personal knowledge. He has not been able to convincingly state that how he came to know that the petitioners abandoning the job, when the record maintained by the respondent does not disclose any such fact. Moreover, the old employee Mr. Madan who allegedly gave this information to the SDO has not been examined. Therefore, on the basis of hear say evidence, cannot be stated that the petitioners abandoned the job themselves. Another fact which favours the petitioners that though they were absent for more than 10 days, yet no notice was given to them either for rejoining their duties or for explaining their wilful absence without permission. Lastly suggestion has been given to PW-2 by the Executive Engineer that his name was not sponsored by the Employment Exchange. This also shows that probably because the name of the petitioners were not sponsored by the employment exchange, so their services were disengaged.

10. In view of the discussion above, it appears that the defence of the respondent that the petitioners abandoned the job is not proved. Rather, it appears that their services were terminated without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947 and so their retrenchment is violative of section 25-F of the Industrial Disputes Act, 1947. I, therefore decide this issue in favour of the petitioners and against the respondent.

11. Issue No. 2. The respondent has taken objection that since the claim petition is of the year, 1989 and therefore, it is belated and cannot be entertained. Limitation Act is not applicable to industrial disputes. It has been held by the Hon'ble Supreme Court and Hon'ble High Courts in various pronouncements that merely the delay in filing the petition will not defeat the cause of workmen as due to illiteracy, poverty and ignorance, they are often not in a position to get proper guidance and agitate the claims. Therefore, the claim can not be rejected only on the ground of delay. In the present case, both the PWs have stated that they have been going and meeting the officers, but were not re-employed. However, they admit that no written representation was given. This part of the statement of the petitioners remained unrefuted because Shri Mahesh Singh, who appeared on behalf of the respondent can not have the personal knowledge as he only joined four months prior to recording of his statement in the Court. Therefore, believing the statements of the petitioners, I hold that they kept on trying to get re-employed during this period but without success and so the delay has been sufficiently explained and is not fatal. Hence the issue is decided in favour of petitioners

RELIEF

12. Keeping in view the aforesaid findings and discussions, I allow the prayer of the petitioners for re-instatement with full back seniority. However, the petitioners have not mentioned that they were not gainfully employed during this period. I, therefore, do not, allow any back wages to them. The reference is

answered accordingly. Let a copy of this award be sent to the appropriate government for its publication.

Announced in the Open Court today this 15th Day of December, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge, Himachal Pradesh Industrial Tribunal-cum-Labour Court Shimla

Ref. No: 32 of 1993

Instituted on: 5-2-1993

Decided on: 12-12-2000

General Secretary, Tube Expansion Equipment Workers' Union, Parwanoo ..Petitioner.

Versus

→ The Managing Director, Tube Expansion Equipment Private Limited, Parwanoo ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners : Shri Hem Raj, AR.

For respondent : S. R. Sharma, Advocate.

AWARD

This reference has been received from the appropriate government with regard to the retrenchment of 36 workers of M/s Tube Expansion Equipment Pvt. Ltd., Parwanoo. The petitioner through their union has filed the claim petition alleging that 32 workers were laid off on 26-6-1992 and 4 workmen were laid off on 10-7-1992. Lay off was followed by retrenchment of these workers w. e. f. 26-8-1992 and 10-9-1992 respectively. It is submitted that few days prior to the lay off, the management had written to the union that workmen have resorted to slow down w. e. f. 10-6-1992 and had demanded that the production be improved. However, this charge of the management was refuted as there was no slow down by the workers. Yet, after only few days, the management resorted to lay off on the plea that huge stocks have piled up and there are no new orders. Thereafter, the management resorted to retrenchment of these 36 workmen on two different dates.

2. Petitioners have submitted that there was no lack of orders or any financial crises. However, the management laid off and then retrenched the workers with a view to get rid of regular workers by resorting to unfair labour practice.

3. The petitioners have also alleged that lay off was not done on the principles of first come last go. Rather, the policy of pick and choose was adopted. Lastly, it is pleaded that the respondent was taking work from outside agencies and vendors (Contractual labourers). Therefore, the retrenchment of the workers was unjustified and illegal. Hence that 36 workmen be re-instated with continuity of service, back wages and other benefits

4. The management has stated in the reply that lay off and retrenchment were not abrupt decisions, rather due to resession, non receipt of the orders and the fact that stocks had piled up. So in order to effectively manage the affairs of the company, the retrenchment of some of the workers was essential. It is submitted that government and Labour Inspector were duly informed and retrenchment was done strictly as per section 25 F of the Industrial Disputes Act, 1947 and Rule 81 of the Industrial Disputes Rules (H.P.), 1974.

5. It is submitted that the union had submitted a demand for uniforms, shoes, diwali allowance and the reinstatement of 4 workers against whom an enquiry was in progress and had resorted to slow down because of these demands. But by mutual settlement, this issue was resolved and so the correspondence between union and the management with regard to slow down has nothing to do with lay off and retrenchment of the workers. It is further submitted that there were about 90 workers till 1992, which included 64 workers and 26 staff members. It is also submitted that two shifts used to operate on regular basis and about 7 to 10 lacs was the production per month. However, since March, 1991, there was shortage of orders and steady decline in the production, which resulted in loss to the company to the tune of Rs. 12 lacs to Rs. 13 lacs. So in the larger interest of the company, the staff was reduced in phased manner and 36 workers 19 staff members were laid off after complying with the provisions of law. It is submitted that since the condition did not improve, so after lay off, the retrenchment had to be resorted to by the company. It is denied that the retrenchment is not in accordance with the law.

6. On the pleadings of the parties, my learned predecessor framed the following issues on 19-11-1993:—

1. Whether the act of the management *vide* which it has laid off 32 workers on 26-6-1992 and 4 workers on 10-7-1992, respectively, is illegal and unjustified, as alleged? If so, to what effect?
OPP.
2. Whether the act of the management *vide* which it has retrenched 32 workers on 26-8-1992 and 4 workers on 10-9-1992, respectively, is illegal and unjustified? If so, to what relief the workers are entitled to?
OPP
3. Relief.

FINDINGS

7. *Issue No. 1.*—This issue is with regard to the laying off of 36 workers on different date i. e. on 26-6-1992 and 10-7-1992. The plea of the petitioners is that the lay off is illegal and *malafide* and is apparent from the conduct of the management itself. It is submitted that earlier, the management levelled allegation that the workers are going slow and have reduced the production, whereas after a short period of 16 days, the workers were retrenched on the plea that larger stocks had accumulated. It is argued that both these contentions are illegal and *malafide* and contradictory to each other.

8. The arguments of the respondent on the other hand is that go slow had been resorted to by the workers in pursuance of the demands raised *vide* Ex. P-1 *vide* which they were asking for Diwali Allowance, Uniform, Shoes and re-instatement of 4 officials who were undergoing enquiry, but that dispute was settled mutually by the management and the union. However, thereafter, huge stocks piled up as there was less orders due to overall resession and so the management had to resort to reducing the number of work strength and thereafter lay off was done in accordance with law.

9. Petitioners have placed on record a number of documents starting from Ex. P-1 to Ex. P-20, which are the copies of the demand, copies of the letter written by the management to the union for improving the production and replies of the union. The lay off was resorted to on 26-6-1992 and then on 10-7-1992. The reason for the lay off given by the management was that huge stocks had piled up and therefore, the production had to be reduced necessitating reduction of the workmen.

10. Petitioners have examined Shri Sukhdev Singh and Ajit Singh in support of their pleas, whereas on behalf of the respondent Shri Hardeep Mehta, Director

of the respondent has appeared in the witness box. All the witnesses have reasserted on oath their respective stands. The respondent in addition to the oral evidence has also relied upon on letter Ex. RA-1/ A which has received from one of their customers that due to recession, there is no immediate requirement for the product. It is also apparent from the statement of RW that a committee was appointed for re-assessing the manpower and as per report of this committee, 36 workmen and few staff members were declared surplus and so 36 workmen were laid off on different dates. To this detailed statement in examination-in-chief, there is no effective cross-examination by the union. Though it has been suggested that there was no financial crises or lack of orders, but it is admitted by the PWs themselves that before lay off, there were two shifts which were operating, whereas, after 26-6-1992, only one shift was working. Both the PWs have admitted this fact. So there is nothing on record to show that the detailed account of lessening of work orders and accumulation of the product given by RW is wrong or *malafide* or manipulated. It seems that due to general recession, reassessment of the manpower was done by the company and as per the report of the committee, lay off was resorted to.

11. No doubt, prior to the lay off, there dispute between the Union and the management regarding go slow, but it is apparent from the documents placed on file by the petitioners themselves, that dispute was with regard to some demands raised by their union vide Ex. P-1 and in pursuance of that demand, the management felt that the workers have adopted go slow in the production. There does not seem to be any connection between the correspondence with regard to slow down and with regard to the reason given for lay off.

12. The statement of Shri Hardeep Mehta gives the detailed account of the worsening financial condition of the company. He has mentioned that the bank credit limit which was to the tune of Rs. 32 lacs in 1991-92, had been reduced to Rs. 20 lacs. He has also mentioned that the wages or the salary bills had been reduced from Rs. 2,40 lacs to Rs. 90,000/- per month. He has also mentioned that besides 36 workers, 13 staff members have also been retrenched and that the work which was being done through vendors and contractors to the tune of Rs. 90,000/- earlier has reduced to Rs. 70,000/- per month. Therefore, the version given by Shri Hardeep Mehta proves that the company was going through the financial crises which is reflected from the bank credit limit and other factors mentioned by him. So it cannot be said that artificial financial crises was manipulated by the management in order to retrench the regular workers. It seems that there was lessening of the orders over a period of time and therefore, there was a need to reduce the workmen and the office staff.

13. The argument of the petitioner that the work was being got done through outside agencies after resorting to the retrenchment of the regular staff is also not established. Since there is no rebuttal to the statement of Shri Hardeep Mehta that earlier also some work was being undertaken from the vendors and contractors as the facility of such a work did not establish in the factory. However, he has also mentioned that this work has now been reduced from Rs. 90,000/- to the tune of Rs. 30,000/- which means that the recession has also affected the work which was being carried out through these vendors and contractors. Hence, it is not established that the work from these vendors and contractors is being taken in lieu of the work being done by the retrenched workers. So for all these reasons, I hold that lay off and subsequent retrenchment of the workmen does not suffer from any illegality. Rather, it has been carried out in accordance with law after completing the legal formalities. I also hold that the act of the management is not *malafide* in this respect and was necessitated due to the general recession in the market. I, therefore, decide this issue against the petitioners and in favour of the respondent.

14. **Issue No. 2.** The discussions on Issue No. 1 covers most part of this issue. As per the management, after the lay off of the workers, the financial condition and circumstances did not improve. So, the lay off was followed by retrenchment. There is no counter evidence that after the lay off, the situation improved and there was no need for retrenchment. Suggestion has also been given to the PWs in this regard. The seniority lists Ex. R-1 to Ex P-4 have been placed on file and are admitted by PW-2 which shows that the seniority lists were displayed on the notice board. It has not been pointed out by the petitioners that seniority list was wrong or the retrenchment was not done strictly on the principle of last come first go. There is just a vague allegation, which is not proved. So in view of the discussions on Issues No. 1 and also in view of the observation and discussions on Issue No. 2, I decide this issue against the petitioners and in favour of the respondent.

RELIEF

15. Keeping in view the aforesaid findings and discussions, I hold that the lay off and subsequent retrenchment of the workmen does not suffer from any illegality. Hence, the reference is answered in negative. Let a copy of this award be sent to the appropriate government for its publication in accordance with the law.

Announced in the Open Court today this 12th day of December, 2001.

Seal. ARUNA KAPOOR,
Presiding Judge,
Himachal Pradesh Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge,
H. P. Labour Court, Shimla

Ref. No. : 27 of 2000

Instituted on : 6-4-2000

Decided on : 20-12-2000

Shri Dinesh Sharma ..Petitioner,

versus

The Managing Director, M/s. Aryhite Enterprises (P) Ltd., Baddi, Distt. Solan, H.P. ..Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner: None.

For respondent: Shri V. K. Gupta, AR.

ORDER:

Petitioner has been served for today as per AD but has failed to appear. Case has been called three times.

Since this no material i.e. either statement of claim or evidence on record in terms of petition and he has failed to appear despite service. Therefore, the reference is answered in negative against the petitioner. Be sent for publication.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court, Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge,
Himachal Pradesh Labour Court, Shimla

Ref. No : 35 of 1997

Instituted on : 17-3-1997

Decided on : 13-12-2000

Shri Rajinder Singh s/o Shri Rattan Chand, resident of Village Sidhpur Ghar, P. O. Sidhpur, Tehsil Jawali, District Kangra . . . Petitioner.

Versus

1. Himachal Pradesh State Electricity Board through its Secretary, Himachal Pradesh Government, Shimla-2.
2. Executive Engineer Transmission Division, Himachal Pradesh State Electricity Board Dehra, District Kangra, Himachal Pradesh . . . Respondents.
3. Assistant Executive Engineer, Himachal Pradesh State Electricity Board, Sub-Division Jasoor, District Kangra, Himachal Pradesh . . . Respondents.

► **Reference under Section 10 of the Industrial Disputes Act, 1947**

For petitioner : Shri C. B. Barowalia, Advocate.

For respondents : Shri S. P. Sharma, A. R.

AWARD

This reference has been received from the appropriate government. The allegations of the petitioner are that he was employed as beldar by the respondent and worked as such from 26-6-88 till 7-7-1993, when he was retrenched from service. It is further mentioned by him that he had worked continuously except for the fictional breaks which were given by the department on their own. It is further submitted that he was transferred in between from one division to another division and he continued working without any break. It is specifically mentioned by him that the Assistant Engineer on the directions of the Executive Engineer called him on 7-7-1993 and told that there is no work now and he will be called as and when the work will be available. However, he was not offered the job thereafter. The petitioner then sent a legal notice and he was called by Respondent No. 2. He was told that he should move an application if he wants a job. He has maintained that there he was handed over an envelope and he was asked to sign the same, which he did without reading the contents. Petitioner alleges that he was made to understand that it was an appointment letter, but when he came out of the office and read it, it transpired that letter had been ante dated and issued on 31-3-1995 and he had been directed to join the service within 15 days. It is submitted that the termination of the petitioner is illegal and against the Industrial Disputes Act. Hence that the petitioner entitled to all the benefits of service including seniority, pay and allowances and reinstatement.

2. In the reply filed by the respondents, there preliminary objections have been taken. Firstly that petitioner has no legally enforceable right. Second that it is bad for want of better particulars and thirdly that the relief claimed is old and petition has been filed after a long time.

3. On merits, it is contended that petitioner worked with the respondent from 26-6-1988 till 1993. However, he completed 302 days in 1992, whereas during other years, he remained absent mostly. It is further submitted that the petitioner was transferred as a consequence of the work requirement. However, he absented himself from duty after 7-7-1993. He was issued notice through registered post on 30-7-1993 advising him to join the duties or face automatic termination. The petitioner

however, did not respond to the notice. Again on 31-3-95 he was sent notice to join duties within 15 days but to no avail. It is submitted that the petitioner abandoned the job on his own and so the petitioner is not maintainable. It is prayed that the petition be dismissed.

4. On the pleadings of the parties following issues were framed by my Ld. predecessor on 23-7-97:

1. Whether the termination of the services of the petitioner from employment without any notice, chargesheet or enquiry and also without the compliance of section 25-P of the I. D. Act, 1947 is invalid and uncalled for as alleged ? OPR.
2. Whether the petitioner has no cause of action, as alleged ? OPR.
3. Whether the petition is suffering for voice of laches and delays as alleged ? OPR.
4. Relief.

FINDINGS

5. **Issue No. 1.**—The main controversy between the parties is whether petitioner was terminated from service or whether he abandoned the job on his own. The requirement of serving notice or holding enquiry, payment of compensation as per section 25 of the Industrial Dispute Act will only arise in case it is established by the petitioner that he was terminated from services by the respondent. The petitioner has maintained in the Court in his statement on oath that he worked interruptedly till 7-7-93 from 26-4-88 and he was retrenched without any compensation etc. He was suggested that a letter E was sent to him. Petitioner admits that the letter was received by him but in 1996. He has also been confronted with another document Ex. R B and the petitioner admits his signatures on this document. He, however, mentioned that this document was dictated by Shri Subhash Chand Sharma, Assistant Executive Engineer to one Shri Kuldip Singh T-Mate and though he signed the letter but it was not a volunteer act on his part. He also mentioned that he has approached the Honble High Court but the writ was dismissed.

6. Apart from the oral evidence, and document Ex R-1 is exhibited by the respondent regarding the man days put in by the petitioner, according to which except in the year 1992-93 he is shown to have worked for less than 240 days. Ex. R-2 is the postal receipt through which the registered letter has been sent to Shri Rajinder Kumar on 30-7-1993. Ex. RA is the letter written to the petitioner by the Assistant Executive Engineer on 31-3-1995. Ex. R-4 is the notice issued by the petitioner to the department and Ex. RB is letter addressed to the Assistant Executive Engineer by the petitioner. This letter is dated 12-2-1996.

7. According to respondent, petitioner moved this application on 12-2-1996 informing that he had left the job on his own in 1993 because of the family constraints and vide this application he requested that he be again employed as beldar in the department. The petitioner has mentioned in the petition that on receipt of this notice by the department he was called to the office and thereafter he was asked to apply for job and was handed over annexure R-4 which has been executed on Ex. RA. As regards Ex. RB he only mentions that this letter has been dictated by Shri Subhash Sharma, Assistant Executive Engineer to one Shri Kuldip Singh T-Mate. Assuming it to be so, yet merely because the letter has been dictated by some other person does not necessarily make this letter suspicious or against the will of the petitioner as admittedly it is signed by him. The cross-examination of the petitioner shows that the letter was dictated in his presence and he signed it. There is nothing on record to show that he did not understand the contents of the letter or that he was forced to sign the document. So even if it has been dictated and had been written by Shri Kuldip Singh it does not show the letter was not voluntarily signed by the petitioner.

Versus

Himachal Pradesh Public Works Department,
Division Kalpa, District Kinnaur, Himachal Pradesh
... Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri Hem Raj A. R. ११

For Respondent : Shri Ghanshayam, A. R.

AWARD

Moreover Shri Subhash Sharma appeared in the witness box and no suggestion has been given that it is he who had dictated the letter without making the petitioner understand the contents of the letter. More so when it has been asserted by the respondent that petitioner is educated and has signed the letter in English. If this letter had been written by Kuldip Singh T-Mate on the direction of Subhash Sharma and petitioner was made to sign this letter either without making him understand about the contents of the letter or by forcing him to sign the letter, a specific suggestion in this regard should have been given to Subhash Sharma. Therefore, I hold that petitioner has failed to prove that his signature has been procured on letter RD and it was not voluntary act on his part.

8. As per this letter petitioner has admitted that he left the job on his own due to domestic compulsions. Therefore, the admission of petitioner establishes the plea of respondent that service of the petitioner was not terminated by the department. Rather he himself left the job of his own. Hence there was no need of either serving notice or paying him compensation. Moreover this contention of the respondent is also supported from the notice Ex. RA and Ex.R-2 which has been sent on 30-7-1993. It is not disputed by the petitioner that he did not receive this letter, but according to him he received it only in 1996, this letter Ex. RA proves that notice was again given to the petitioner to join the duties within fifteen days, meaning thereby that petitioner was shown to be on the rolls of the department till then. This fact is even established from the pleadings of the petitioner that in the list of seniority dated 5-4-1995 he is shown to be at serial No. 80 whereas he should have been shown at serial No. 68. This fact is also evident from the notice issued by the petitioner to the respondent under section 80 CPC. Meaning thereby that till this date the name of the petitioner was figuring in the record of the department and he was given notice twice to join the duties. Had his services been terminated there was no need to show his name in the seniority list. In these circumstances petitioner has miserably failed to prove that he has been terminated by the respondent. Therefore, the issue is decided against the petitioner.

9. Issue No.2.—Since it has been held by me that the petitioner himself has abandoned the job. Therefore, petitioner has no cause of action and issue is decided against the petitioner.

10. Issue No. 3.—No such delay and laches has been proved by the respondent, therefore this issue is decided against the respondent.

RELIEF

11. Keeping in view the aforesaid findings and discussion, I hold that the petitioner has miserably failed to prove that he has been terminated from service. Hence the reference is answered in negative. Let a copy of this award be sent to appropriate Government for publication in accordance with law.

Announced in the Open Court this 13th day of December, 2000.

Seal.

ARUNA KAPOOR,
Presiding Judge,
H. P. Industrial Tribunal-cum-Labour Court,
Shimla.

In the Court of Mrs. Aruna Kapoor, Presiding Judge
Himachal Pradesh Labour Court, Shimla

Ref. No. 104 of 1997

Instituted on: 8-8-1997

Decided on : 5-1-2001

Shri Dhan Singh son of Shri Veer Singh c/o Shri Baldev Singh, O/o H.P. Khadi Gramodyog, Reckong Peo, District Kinnuar, Himachal Pradesh .. Petitioner.

This reference has been received from the appropriate Government. The petitioner alleges in the claim petition that he was working as a beldar on daily wages from April, 1983 till 26-5-1994 with Himachal Pradesh Public Works Department, Kalpa. However, a false case was registered against him and he was taken in Judicial custody. He was ultimately acquitted by the court of the charge on 18-1-1995. The petitioner alleges that he thereafter went to join his duties, but was not assigned any work. He was though assured that he will be assigned duties after some time. He also made written representations, but to no avail. Thereafter, he raised the industrial dispute and the matter was taken up by the Conciliation Officer, but no conciliation could be arrived at.

2. Petitioner submits that no charge-sheet was handed over to him nor any enquiry was conducted against him. He was not given any notice or re-enforcement compensation. Therefore he is entitled to be re-instated in service with all consequential benefits of seniority, continuity of service and back wages.

3. In the reply filed by the respondent, it is admitted that petitioner was working as beldar from June, 1984 till May, 1994. Further that he was arrested in a criminal case and remained in custody for about six months, though neither the petitioner nor the police informed about the arrest. It is submitted that petitioner did not approach the department after his acquittal and for the first time, the respondent received notice from the Conciliation Officer regarding his re-induction. It is denied that petitioner was not assigned any duties or that a number of representations were received from him.

4. Respondent has asserted that petitioner was arrested in a criminal case after a *prima facie* case against him was established though he was acquitted by the Court after giving him benefit of doubt. Hence, that the claim petition of the petitioner deserves to be rejected.

5. On the pleadings of the parties, my learned predecessor framed the following issues on 25-8-1998:—

1. Whether the termination of the services of the petitioner is illegal without following the procedure laid down under section 25-F of the Industrial Disputes Act, 1947 ? If so, its effect ?

2. Relief.

FINDINGS

6. Issues No.1 The facts are not much in dispute in the present case. Admittedly, petitioner was working as beldar on daily wages basis with the respondent from April, 1984 till 26-5-1994. It is also not in dispute that he was arrested by the police in a criminal case and remained in custody for over six months. Further there is no dispute that the petitioner was ultimately acquitted by the Court of Learned Chief Judicial Magistrate, Kinnaur on 13-1-1995. Another undisputed fact is that no separate enquiry was conducted by the Department into the alleged misconduct of the petitioner.

The only contentious point is whether the petitioner is entitled to be re-instated after his acquittal from the criminal charge. The obvious reply to the question is

in affirmative. The charge on which the petitioner remained in custody could not be ultimately proved against him. Therefore, he cannot be held guilty of committing any criminal act. Moreover, his absence from duty cannot also be construed or voluntary absence till 18-1-1995 because he was in judicial custody on the basis of a case registered against him of stealing some detonators from the department. Therefore, his absence cannot be construed to be a misconduct on his part as it was not his voluntary act nor he can be held liable for committing any criminal act amounting to misconduct.

7. It is also admitted by the respondent that no enquiry was held independently against the petitioner. Therefore, even departmentally, the allegations of misconduct have not been proved against him. In these circumstances, petitioner was entitled to be re-instated in service after his acquittal.

8. The next question which arise for consideration is whether petitioner did not take any steps to inform the department either about his arrest or about his acquittal. According to the respondent, petitioner did not approach them after his acquittal and they only came to know about his acquittal from the notice of the Conciliation Officer. On the other hand, the petitioner has mentioned that he sent written representations and also met the respondent many times. He has also exhibited one written representation, which is Ex. PB which is dated 20-7-1996. One representation even has been admitted by the respondent in their reply. Moreover, petitioner stated on the oath that he approached the JE and SDO for work, but was not assigned any duties. Suggestion has been given to the petitioner in cross-examination that since he had remained absent continuously for more than 200 days, so his seniority has been scrapped. This shows that the respondent did not re-employ him as according to them, his absence from duty dis-entitled him from his back seniority. However, as has been discussed above, the charge against the petitioner had failed and he was acquitted by the Court. Therefore, his absence which was on account of registration of criminal case, cannot be held to his disadvantage and further since he was acquitted by the court, therefore, he cannot be deprived of his service benefits because of the criminal case which was not ultimately proved. I am supported in my view by 2000 DLR-577-SC.

8. I, therefore, held that petitioner did approach the department after his acquittal, but was not assigned job due to his remaining absent from duty which action was not justified. I, therefore, allow the prayer of the petitioner and hold that petitioner is entitled to re-instatement in service with back wages, seniority and continuity of service w. e. f. 26-5-1994. Issue is decided accordingly.

RELIEF

9. Keeping in view the aforesaid findings and discussion, I hold that the petitioner is entitled to re-instatement in service with back wages, seniority and continuity of service w. e. f. 26-5-1994. The reference is answered accordingly. Let a copy of this award be sent to the appropriate government for its publication.

Announced in the Open Court today this 5th Day of January, 2001.

Seal.

ARUNA KAPOOR,
Presiding Judge,

H. P. Industrial Tribunal-cum-Labour Court Shimla.

वहूदेशीय परियोजनाएं परं विद्युत विमान

प्रधिमूचनाएं

पत: राजपत्राल, हिमाचल प्रदेश को यह प्रतीत होता है कि राष्ट्रीय जल विद्युत परियोजना नियम समिति (एनो एचो पी० सी०) जांक भूमि पर्यावरण अधिनियम, 1894 (1894 का पहला अधिनियम) का धारा 3 के लाई (सौ० सी०) के अन्तर्गत केन्द्रीय मंत्रालय के स्वामित्व और विधान के प्रयोग एक नियम है, के द्वारा अपने व्यव पर मार्गनिक प्रयोजन* हेतु भूमि प्रशंसन कर्त्ता प्रयोक्ता है। अन्तर्गत एन्ड्रेडा यह परिषुद्धित किया जाता है कि उक्त पारंपरिक में जैसा कि नीचे विवरणी में निर्दिष्ट किया गया है, उपराजन * प्रयोजन के लिए भूमि का प्रयोग करना चाहिए है।

2. यह प्रधिमूचना ऐसे सभी अविन्योगों को, जो इससे सम्बन्धित ही मकान हैं, की जानजारी के लिए भूमि वर्जन अधिनियम, 1894 को धारा 4 के उपबन्धों के अन्तर्गत जारी की जाती है।

3. पूर्वोक्त धारा द्वारा प्रदत्त गविन्योगों का प्रयोग करने हुए, राजपत्राल, हिमाचल प्रदेश इस समय इस उपकरण में कार्यरत अधिकारियों, उनके कर्मचारियों और अधिकारियों को इनका को किसी भी भूमि में प्रवेश करने तथा सर्वेषण करने और उम धारा द्वारा अंदित अथवा अनुभव: अन्य सभी कार्यों का करने के लिए सहयोगिता देते हैं।

4. कोई भी ऐसा हिन्दू व्यक्ति जिसे उक्त परिक्षेत्र में कठित भूमि के अन्तर्गत करने पर कोई आवाहन हो, वह इस प्रधिमूचना के प्रकाशित होने के तीस (30) दिनों की अवधि के भीतर लिखित रूप में भू-पर्यावरण नियम, चमोर्ग जल विद्युत परियोजना, कर्मीयां, तहसील व जिला चमोर्ग, हिमाचल प्रदेश के मध्य अपनी आपत्ति दायर कर सकता है।

*भूलाल पलेह, तहसील व जिला चमोर्ग जल विद्युत परियोजना चमोर्ग प्रयोग के जलाशय में अमुग्धित होने हेतु।

संख्या विद्युत-४-(५) 25/2001.

शिमला, 23 जुलाई, 2001.

महाल	खमरा नं०	लेव	
		1	(बीची में)
फलेह नं० ८० (302)	६७०/१	०	०७
	६८७/१	०	१२
किता .. २		०	१९

*भूलाल गुराह, तहसील व जिला चमोर्ग (हि० प्र०) में चमोरा जल विद्युत परियोजना-२ के जलाशय लेव हेतु।

संख्या विद्युत-४-(५) 26/2001.

शिमला, 23 जुलाई, 2001.

गुराह हि० नं० (157)	९०३/१	७	०२
723		०	०३
725/१		०	०४
594/१		०	०४
724		०	०२
किता .. ५		७	१५

शिमला, 23 जुलाई, 2001

संख्या विद्युत-४ (५) 5/98.—पत: राजपत्राल, हिमाचल प्रदेश का यह प्रतीत होता है कि राष्ट्रीय जल विद्युत परियोजना नियम समिति (एनो एचो पी० सी०) जो कि भूमि पर्यावरण अधिनियम, 1894 (1894 का पहला अधिनियम) की धारा 3 के खण्ड (सौ० सी०)

के अन्तर्गत केवल राजकार के स्वामित्व और नियन्त्रण के अधीन रहके अन्तर्गत होता है, को यह अपने द्वाय पर नियन्त्रित भूमि नहीं आहिए।

गत: राज्यपाल, हिमाचल प्रदेश भूमि अधिकारी अधिनियम, 1894 की घारा 48 के अन्तर्गत प्रदत्त शब्दार्थों का प्रयोग करते हुए इस विभाग द्वारा जारी की गई गोपनीय अधिग्रन्ता, विवाक 25-1-1999 तथा 16-3-2000 जो कि भूमि अधीन अधिनियम, 1894 की घारा 4, 6 तथा 7 के अन्तर्गत सहान बलहीनी वाला, नो 10 346/2, नहराल बलहीनी, जिला जारा में चोरग जल विभाग परियोजना प्रयोग वस्त्रा लाईहिनग याक केवलियन कलीनी राह के नियम हीन अन्तिम कारने के लिए जारी की गई थी में भू-प्रज्ञन कारंबाई गहरे वापस लेते हैं।

जिला : जारा	विवरणी		नहरीन : इलहीनी
	वर्गना नं०	रक्षा (हेक्टेयर में)	
हलहीनी वाला	226/1	0 00 40	
नो 10 346/2	226/2	0 00 10	
	226/3	0 00 28	
	226/4	0 00 16	
किला .. 4		0 00 94	

गिमला, 28 जूनाई, 2001

गव्या विवृत-क्र- (५) 17/2001.—गत: राज्यपाल, हिमाचल प्रदेश को यह प्रतीत होता है कि हिमाचल प्रदेश राज्य विवृत प्रदेश जो कि भूमि अधीन अधिनियम, 1894 (1894 का वहान अधिकारी अधिनियम) की घारा-3 के खेत (भा० या०) के अन्तर्गत राजकार के स्वामित्व और नियन्त्रण के अधीन एक नियम है, कि द्वारा यहाने घृण्य पर गोपनीय कारने के लिए जारी नहरीन वाला, नहरीन कल्या, जिला किलोर (हिं० या०) में कामग विभाग परियोजना के नियमोंन ही भूमि अन्तिम कारनी अधिनियम आवश्यक अधिसूचित है। उपरान्त ०-१००० यह अधिसूचित किया जाता है कि उक्त परियोजना में जैसा कि नीचे निम्न विवरणी में नियन्त्रण किया गया है, उपरान्त प्रयोगत के लिए भूमि का अन्त योग्यान्त है।

2. यह अधिग्रन्ता एंगे गोपनीय कारनों को जो इसमें सम्बन्धित हो गकत है, की जानकारी के लिए भूमि अधीन अधिनियम, 1894 की घारा 4 के उपरान्तों के अन्तर्गत जारी की जाती है।

3. पुर्वोक्त घारा द्वारा प्रदत्त शब्दार्थों का प्रयोग करते हुए, हिमाचल प्रदेश के राज्यपाल इस नियम में कामग तथी अधिकारीयों, उनके कर्तव्यार्थों और अधिकारीयों को इलाके की किसी भी भूमि में प्रयोग करने तथा गवेषण करने द्वारा उम्म घारा द्वारा अन्तिम अधिनियम गर्वी घृण्य कारों को करने के लिए, गहरे आधिकार देते हैं।

4. अधिकारीक आवश्यकता की घारा में रखते हुए, हिमाचल प्रदेश के राज्यपाल उक्त अधिनियम की घारा 17 की उप-घारा (४) के प्रयोग यह भूमि के नियन्त्रण के हैं कि उक्त अधिनियम की घारा 6-५ के उपरान्त इस मामले में लागू नहीं होती।

5. भूमि के खालीक का नियन्त्रण, कामग भू-प्रज्ञन गमाहीन, हिमाचल प्रदेश गोपनीय विभाग परियोजना विभाग बंक भवन, गिमला-३ में किया जा गकता है।

जिला : किलोर	विवरणी		नहरीन : कल्या
	वर्गना नं०	रक्षा (हेक्टेयर)	
गाव	1	2	3
जारी	709/1	0 05 12	
	709/1	0 00 33	
	709/1	0 01 19	

	2	3
702/1	0 01 00	
979/1	0 01 24	
980/1	0 00 64	
707/1	0 00 86	
703	0 00 93	
860/1	0 01 68	
867	0 01 47	
939	0 04 72	
978	0 03 96	
1058/000/1	0 08 32	
1050/000	0 03 62	
803	0 50 67	
804	0 67 92	
801	0 93 74	
802	0 19 74	
962	0 82 14	
998/1	0 01 28	
616/1	0 03 17	
708/1	0 01 72	
708/2	0 00 80	
729/1	0 04 84	
734/1	0 00 72	
701/1	0 00 91	
706/1	0 00 10	
711/1	0 00 45	
762	0 00 88	
764	0 00 48	
705	0 05 58	
किला .. 31	3 60 63	

गिमला, 2 अगस्त, 2001

गुरुवा विवृत-क्र- (५) 1/2001.—गत: राज्यपाल, हिमाचल प्रदेश को यह प्रतीत होता है कि भू० नय प्रकाश हूँडर्ड० (ज नि०) ३० प० हांड०५, बसत यो०, बरत विहार, नई दिल्ली जो कि भूमि अधीन अधिनियम, 1894 (1894 का वहान अधिकारी अधिनियम) की घारा 3 के खेत (ई) के अन्तर्गत एक कम्पनी है के द्वारा यहाने घृण्य पर उक्त कम्पनी के प्रबोहत हैनू तथात: उप-महान गुरुगं, पानवी, बूचा० व भारवाहांग, तहवील निचार, जिला किलोर, हिमाचल प्रदेश में करचलम बांग० जल विभाग परियोजना (1000 मीट्रोजांड) के नियमोंन हैनू भूमि आंजन करनी अधिसूचित है। घानाव एवं यह अधिसूचित किया जाता है कि उक्त परियोजना में दीवा० भूमि का अन्त योग्यान्त है।

2. यह अधिग्रन्ता एंगे गोपनीय कारों को जो इसमें सम्बन्धित हो गकत है, की जानकारी के लिए भूमि अधीन अधिनियम, 1894 की घारा 4 के उपरान्तों के अन्तर्गत जारी की जाती है।

3. उपरान्त घारा द्वारा प्रदत्त शब्दार्थों का प्रयोग करते हुए, हिमाचल प्रदेश इस नियम इन लक्ष्य में कामरूप यो० अधिकारीयों, उनके कर्तव्यार्थों और अधिकारीयों को इलाके की किसी भी भूमि में प्रयोग करने तथा गवेषण करने और उम्म घारा द्वारा अन्तिम अधिनियम गर्वी घृण्य कारों को करने के लिए गहरे आधिकार देते हैं।

4. कोई भी गोपनीय इनकाल वर्तमान जिसे उक्त परियोजना में कामित भूमि का अन्त यह कामीन हो तो वह इस अधिग्रन्ता के प्रकाशित होने के ३० दिनों का अवधार कीतर विवरण है० अधीन गमानी, [उप-महान्डर्ड० (जान०)], निचार, रिपूत भावान० निचार, जिला किलोर के गमानी यांनी आपाना दायर कर लकता है।

ફેયર્સ 28 નવ્ની 2001

गढ़वा निवृत्त-क्र.- (८) ०६/२०००. —यव: राज्यपाल, हिंसाचल प्रदेश को यह प्रतीत होता है कि नेशनल थैरेंस पावर कार्गोरेंस जो कि भूमि वर्जन मध्यिकायम, १८८४ (१८८४ का पहला अधिनियम) की धारा ३ के विवर (सी० सी०) के अन्तर्गत केंद्रीय सरकार क द्वारा मित्र थोर तिलमण के अध्यात् एक नियम है, के द्वारा अपने अपने पर सार्वानन्दक प्रयोजन नहीं नियम: मुहाज शाकरा, नहमील कराया, जिला मण्डी में कोल वाप परियोजना के नियम हेतु भी अनियम करनी आवश्यक है। अतः एवं प्रतिवृत्त यह अधिसूचना किया जाता है कि उन्नत विवरण में जैसा कि नियम विवरणी में नियंत्रित किया गया है, उपरोक्त प्रयोजन के लिए भवित्व का अवैतन प्रवृत्तित है।

“ भगव उत्तम प्राधिनियम की धारा ८ के उपबन्धों के अन्तान
इससे गम्भीरता गाथी वासियों की मृत्यु के लिए वह धारणा की
जाती है, और उक्त प्रधिनियम की धारा ७ के उपबन्धों के अन्तान
भू-प्रज्ञत गमहाती, (उप-मार्गालाधिकारी) (नागारक), मुरुरुगण,
जिला मण्डी, हिमाचल प्रदेश को उक्त भूमि के अन्तर्जन के लिए
आदेश देने का एन्डवर्डा निवेद दिया जाता है ।

3. इसके अतिरिक्त भूमि भवंत यात्रिनिधि की धारा 17 की अंग-धारा (1) द्वारा प्रवत्त एकत्रियों का प्रयोग करते हुए हिमाचल

प्रदेश के राज्यपाल यह निर्देश देते हैं कि अस्थावर्षक सामग्री ग्राने के कारण भू-क्षेत्र बदाहोली, (उप-भूषणलांधकारी) (नामांकित), भूषणलार, बिला जट्ठी, दिमाचत जंगलों को सभी अधिकारियों की धूती (५) की उप-धारा (१) के अधीन तूचनों के प्रकाशन तथा १५ दिन की अवधि समाप्त होने पर बंचाट देते हैं तथा पूर्व आकुल भूमि का कठना भेज देता है।

4 भूमि ते गम्भीरता योग्यक का निर्विकल्प कार्यक्रम भू-प्रत्येक व्यावहारिक, (उप-सम्बन्धाधिकारी) (वासिक) सुनिश्चितता में किया जा सकता है।

विवरणी	तहसील : करसार
तिला : मही	
महाल	राजा नम्बर (बीघा में)
गाँव	3149/3006/1/1 4 13 12

यतः हिमाचल प्रदेश के गढ़वाल, का यह प्रतीत होता है कि केन्द्रीय सरकार देवदेव विभाग के द्वारा आने वाय पर गार्व निक प्रगति ने लेते भूमि भर्जन करनी अपेक्षित है। अनेक एतद्वारा यह अधिगृहित किया जाता है कि उक्त पारिवेश में जैसा कि निम्न विवरणी में विविड किया गया है, उपरोक्त *प्रयाजत के लिए भूमि का भर्जन अपेक्षित है।

2. पृथ्वी अधिकृताना देसे मरी अवक्तव्य का, जो इसमें सर्वाधिक हो सकते हैं, की जातकारी के लिए भूमि अवैत अधिनियम, 1894 की धारा 4 के उपबन्धों के मन्त्रीत जारी की जाती है।

3. पूर्ववित धारा द्वारा प्रदत्त अधिकारों का प्रयाग करने हुए, राजसामाजिक हिमाचल प्रदेश इस समय इन उपकरण में कार्यरत सभी अधिकारियों, उनके कर्मचारियों और अधिकारों को इलाके में किसी भी भूमि में प्रवेश करने और सर्वेश्वर दर्शन करने तथा उस धारा द्वारा अपेक्षित अधिकारों को करने के लिए, महबू

4. काई भी हिन्दू धर्मिन, जिस उन्हें परिवेत में कापथन भूमि के प्रजनं पर कोई आगति हो, तो वह इस पर्यामुक्ति के प्रकाशित होने के तीस (30) विना की वर्धित के भीतर उत्तिष्ठित है में भू-प्रजनं समाहर्ता, जिस ऊना (सहायक उपायुक्त, ऊना) हिमाचल प्रदेश के समान आपने सारांति दायर कर गया है।

*गोव उप महान कस्ता बगाव, तहसील पांड जिला उत्ता मे तंगान-तंगाडा रेल लाईन (कुना मे चहूड तक) के निर्माण हेतु।

શાલ્ય પીઠ પણો બો નિર્ણા (૭૯) ૧-૧/૧૪-૧૦૧-૧૦૩-૧૧

व अदान भी दी0 को0 रुप (दी0 प्र0 मे0), उप-प्रदल दण्डाधिकारी चाला, निया चाला, हिंदूपत्र प्रेस

६. भी लल चल युव लक्ष्मी चाला, निया चाला, प्राप्ति, विद्या चाला, निया चाला, निया चाला

वापाप

धारण जनता

प्राप्ति पत्र द्वारा 13(3) अध्य एवं पृष्ठ पंक्तिकाला प्रधिनियम 1960

भी लल चल ने इस अदानत में एक प्राप्तिपत्र युवारा है कि उसका युवी लक्ष्मी चुनारी का जन्म दिनांक 25-०-1900 की हुआ है एवं उपर्युक्त वह चलकी जन्म निया प्राप्ति पत्र द्वारा दियोग्यता के द्वितीय से दूसरे नहीं करा गया है।

अतः मन्त्राधारण जनता को इस इतिहार के बारें युचित किया जाता है कि इस बारे किसी को कोई उपर्युक्त चल नहीं होता वह दिनांक 20-८-2001 को प्राप्त 10.00 रुप वकालत दावाव आकर दर्ज करा गया है। नियोगित धर्मिय के वकालत दावी धर्मिय प्राप्ति पत्र न होने की दृष्टि में प्राप्तिपत्र भी लल अन्य पत्र नियमानुसार कार्यवाही की जायेगी।

प्राप्ति दिनांक 18-७-2001 को बैरे इतिहार के कार्यालय द्वारा प्रधानत द्वारा जारी किया गया।

मोहर ।

दी0 को0 रुप,
उप-प्रदल दण्डाधिकारी,
चाला, निया चाला, हिंदूपत्र प्रेस।

व अदान भी दी0 को0 रुप (दी0 प्र0 मे0), उप-प्रदल दण्डाधिकारी चाला, निया चाला, हिंदूपत्र प्रेस

भीपती लोगों देवी पत्नी प्रकाश चाला, निया चाला, प्राप्ति चाला, निया चाला, निया चाला

वापाप

धारण जनता

प्राप्ति पत्र नाम दस्तावेज़।

भीपती लोगों देवी पत्नी देवी अदानत में एक प्राप्तिपत्र युवारा है कि उसकी युवी का जन्म चाला है जिसका प्राप्ति निया चाला में उपर्युक्त विद्या चाला जन्म गया है जो अबत है, वकालत करते हुए प्राप्तिपत्र की जायेगी।

अतः मन्त्राधारण जनता को इस इतिहार के बारें युचित किया जाता है कि इस बारे किसी को कोई उपर्युक्त चल होता वह दिनांक 20-८-2001 को जन्म 10.00 रुप वकालत दावाव आकर दर्ज करा गया है। नियोगित धर्मिय के वकालत दावी धर्मिय प्राप्ति पत्र न होने की दृष्टि में प्राप्तिपत्र भीपती लोगों पर नियमानुसार कार्यवाही की जायेगी।

प्राप्ति दिनांक 18-७-2001 को बैरे इतिहार के कार्यालय द्वारा प्रधानत द्वारा जारी किया गया।

मोहर ।

मोहर ।

दी0 को0 रुप,
उप-प्रदल दण्डाधिकारी, चाला,
निया चाला, हिंदूपत्र प्रेस।

व अदान भी दी0 को0 रुप (दी0 प्र0 मे0), उप-प्रदल दण्डाधिकारी चाला, निया चाला, हिंदूपत्र प्रेस

भी वैदिका युव चाला, निया चुनारी, प्राप्ति चाला, निया चाला, निया चाला, निया चाला

वापाप

धारण जनता

प्राप्ति पत्र द्वारा धारा 13(3) अध्य एवं पृष्ठ पंक्तिकाला प्रधिनियम, 1960.

भी वैदिका ने इस अदानत में एक प्राप्तिपत्र युवारा है कि उसका जन्म दिनांक 6-१२-१९४७ को हुआ था एवं उसका जन्म निया चुनारी चुनारी की दिक्कत में 1943 रुप है। जो अबत है, दुष्कृती है युवा चुनारी की जायेगी।

अतः मन्त्राधारण जनता को इस इतिहार के बारें युचित किया जाता है कि इस बारे किसी को कोई उपर्युक्त चल होता वह दिनांक 20-८-2001 को प्राप्त 10.00 रुप वकालत दावाव आकर दर्ज करा गया है। नियोगित धर्मिय के वकालत दावी धर्मिय प्राप्ति पत्र न होने की दृष्टि में प्राप्तिपत्र भी वैदिका युवा चुनारी की जायेगी।

प्राप्ति दिनांक 18-७-2001 को बैरे इतिहार के कार्यालय द्वारा प्रधानत में जारी किया गया।

मोहर ।

दी0 को0 रुप,
उप-प्रदल दण्डाधिकारी, चाला,
निया चाला, हिंदूपत्र प्रेस।

व अदान भी दी0 को0 रुप (दी0 प्र0 मे0), उप-प्रदल दण्डाधिकारी, चाला, निया चाला, हिंदूपत्र प्रेस

भी युवेंड युव चाला, निया चाला, प्राप्ति चाला, निया चाला व निया चाला

वापाप

धारण जनता

प्राप्ति पत्र द्वारा धारा 13(3) अध्य एवं पृष्ठ पंक्तिकाला प्रधिनियम, 1960.

भी युवेंड ने इस अदानत में एक प्राप्तिपत्र युवारा है कि उसके युवे प्राप्ति का जन्म दिनांक 14-१२-१९४७ को हुआ है एवं उसका जन्म निया चाला उसका जन्म प्राप्ति पत्र युवा चाला में राज्य गमन दर्जे हैं जिसकी दस्तावेज़ हृषि चाला की जायेगी।

अतः मन्त्राधारण जनता को इस इतिहार के बारें युचित किया जाता है कि इस बारे किसी को कोई उपर्युक्त चल होता वह दिनांक 20-८-2001 को प्राप्त 10.00 रुप वकालत दावाव आकर दर्ज करा गया है। नियोगित धर्मिय के वकालत दावी धर्मिय प्राप्ति पत्र न होने की दृष्टि में प्राप्तिपत्र भी युवेंड युवा चाला की जायेगी।

प्राप्ति दिनांक 18-७-2001 को बैरे इतिहार के कार्यालय द्वारा प्रधानत द्वारा जारी किया गया।

मोहर ।

दी0 को0 रुप,
उप-प्रदल दण्डाधिकारी, चाला,
निया चाला, हिंदूपत्र प्रेस।

व अदालत श्री डी० के० रत्न (हि० प्र० मे०), उप मण्डल दण्डाधिकारी, चम्बा, जिला चम्बा, हिमाचल प्रदेश

श्री दयाल चन्द पुत्र धून, निवासी छपरी, परगना उदयपुर, तहसील व जिला चम्बा, हिमाचल प्रदेश प्रार्थी।

वनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री दयाल चन्द ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उमके पुत्र धून का जन्म दिनांक 17-4-1996 को हुआ था एवं उसके जन्म तिथि वार्षा वह उसकी जन्म तिथि ग्राम पंचायत सिंगो के रिकाउ में दर्ज नहीं करा भका है।

अतः मर्वसाधारण जनता को इस इश्तहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे बकालन द्वारा जन्म तिथि को धून कोई आपत्ति प्राप्त न होने को मूरत में प्रार्थना-पत्र श्री दयाल चन्द पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 18-7-2001 को मेरे हस्ताक्षर व मोहर कार्यालय अदालत द्वारा जारी किया गया।

मोहर।

डी० के० रत्न,
उप-मण्डल दण्डाधिकारी, चम्बा,
जिला चम्बा, हिमाचल प्रदेश।

व अदालत श्री डी० के० रत्न (हि० प्र० मे०), उप मण्डल दण्डाधिकारी चम्बा, जिला चम्बा, हिमाचल प्रदेश

श्री राजेश कुमार पुत्र नानक चन्द, निवासी पवकाटाला, चम्बा शहर, नद्मील व जिला चम्बा प्रार्थी।

वनाम

ग्राम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री गणेश कुमार ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उमके पुत्र अमन कुमार का जन्म दिनांक 26-4-1996 को हुआ था परगना उजानावाड़ वह उसकी जन्म तिथि नगरपालिका चम्बा के ग्रामांड में दर्ज नहीं करा भका है।

अतः मर्वसाधारण जनता को इस इश्तहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे बकालन द्वारा जन्म तिथि वार्षा एक दर्ज करा भका है। निवारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की मृत्यु में प्रार्थना-पत्र श्री राजेश कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 18-7-2001 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

डी० के० रत्न,
कार्यालयी दण्डाधिकारी, चम्बा,
जिला चम्बा, हिमाचल प्रदेश।

व अदालत श्री डी० सी० राणा, उप मण्डल दण्डाधिकारी, भरभीर, जिला चम्बा, हिमाचल प्रदेश।

श्री टेक चन्द पुत्र श्री किरपा राम, ग्राम कुपहाड़ा (चौविया), परगना व तहसील भरभीर, जिला चम्बा, हिमाचल प्रदेश।

वनाम

ग्राम जनता

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री टेक चन्द पुत्र श्री किरपा राम, निवासी कुपहाड़ा (चौविया), परगना व तहसील भरभीर, जिला चम्बा, हिमाचल प्रदेश ने इस कार्यालय में दरखास्त गुजाराई है कि उसके लड़के अमन कुमार की जन्म तिथि 25-1-1995 है, जिसका नाम ग्राम पंचायत चौविया, तहसील भरभीर के अधिलेख में दर्ज नहीं हुआ है।

अतः इस अदालती इश्तहार द्वारा मर्वसाधारण को सूचित किया जाता है कि यदि उक्त नाम व जन्म तिथि पंचायत रिकाउ में दर्ज करने वारे किसी को कोई उजर व एतराज हो तो वह तिथि 21-8-2001 को या उससे पूर्व हाजिर होकर अपना एतराज पेश कर मकता है अन्यथा सम्बन्धित पंचायत सचिव को उक्त नाम व जन्म तिथि दर्ज करने वाला आदेश पारित कर दिया जावेगा।

आज दिनांक 21-7-2001 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

डी० सी० राणा,
उप-मण्डल दण्डाधिकारी, भरभीर,
जिला चम्बा, हिमाचल प्रदेश।

व अदालत श्री दुनिं चन्द राणा, उप-मण्डल दण्डाधिकारी, भरभीर, जिला चम्बा (हि० प्र०)

श्री विक्रम सिंह पुत्र श्री दुनिं राम, निवासी ग्राम सेरी (चौविया) परगना व तहसील भरभीर, जिला चम्बा (हि० प्र०)।

वनाम

ग्राम जनता

दरखास्त जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री विक्रम सिंह पुत्र श्री दुनिं राम, निवासी ग्राम सेरी (चौविया), परगना व तहसील भरभीर, जिला चम्बा, हिमाचल प्रदेश ने इस कार्यालय में दरखास्त गुजारी है कि उसकी लड़की शिलपा देवी की जन्म तिथि 28-2-2000 है, जिसका नाम पंचायत चौविया, तहसील भरभीर के अधिलेख में दर्ज नहीं हुआ है।

अतः इस अदालती इश्तहार द्वारा मर्वसाधारण जनता को सूचित किया जाता है कि यदि उक्त नाम व जन्म तिथि पंचायत रिकाउ में दर्ज करने वारे किसी को कोई उजर/एतराज हो तो वह तिथि 18-8-2001 को या उससे पूर्व हाजिर होकर अपना एतराज पेश कर मकता है अन्यथा सम्बन्धित पंचायत सचिव को उक्त नाम व जन्म तिथि दर्ज करने वाला आदेश पारित कर दिया जावेगा।

आज दिनांक 19-7-2001 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

दुनिं चन्द राणा,
उप-मण्डल दण्डाधिकारी,
भरभीर, जिला चम्बा, (हि० प्र०)।

नाम परिवर्तन

मैं, डा० पूनम महाजन पत्नी डा० बिपिन ठाकुर गांव बरगांल, डाकखाना भलैडौ, जिला चम्बा, (हि० प्र०) मे० अपना नाम बदल कर डा० पूनम ठाकुर रख लिया है। सभी सम्बन्धित नोट करें।

I, Dr. Poonam Mahajan w/o Dr. Bipin Thakur, r/o Village Barngal, P. O. Bhalie, District Chamba have changed my name to Dr. Poonam Thakur after my marriage. Concerned may note please.

DR. POONAM THAKUR,
Vety. Officer,
I/c. Vety. Hospital, Koti,
District Chamba, (H. P.).

In the Court of Collector, Sub-division Barsar,
District Hamirpur, (H. P.)

FORM 'A'
(See rule 31)

FORM OF NOTICE UNDER SUB-SECTION (1)
OF SECTION (4) OF THE H. P. PUBLIC PREMISES
AND LAND (EVICTION AND RENT RECOVERY)
ACT, 1971.

To
Sh. Vijay Kumar s/o Sh. Hem Raj,
Village & P.O. Bhota, Tehsil. Barsar,
District Hamirpur (H. P.).

ORDER :

Whereas, I, the undersigned, is of opinion on the grounds specified below that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises.

GROUNDS

- That you are the owner of premises i. e. space of Rehri No. 2 at Bus Stand Bhota, District Hamirpur (H. P.).
- That an auction was held on 26-11-1996 for the use and occupation of space of Rehri at Bus Stand Bhota for a period of 11 months & the said space of Rehri was given to you in auction being the highest bidder for a period of 11 months on rent *vide* agreement deed commencing from 10-12-1996 to 9-11-1997 and the rent was agreed to be paid by you at the rate of Rs. 775/- per month and the said Licence period was extended second time *w. e. f.* 10-10-1998 to 9-9-1999 at the rate of monthly rent of Rs. 878/- as monthly rent as licence fee.
- That as per agreement you remained in use and occupation of the space of Rehri No. 2 *vide* extended licence period upto 9-9-1999 and was liable to pay licence fee for the period commencing from 10-10-1998 to 9-9-1999 at the rate of Rs. 878/- p.m. which amounts to Rs. 9658/-.
- That you have only paid Rs. 5268/- despite repeated requests and balance outstanding amount of Rs. 4390/- is yet to be paid by you.
- That you are directed to make the payment of Rs. 4390/- with interest and in case the said outstanding amount is not paid by you, then it may be recovered as an arrear of land Revenue.

Now, therefore, in pursuance of sub-section (1) of section 4 of the Act, I hereby call upon you to so show cause on or before 21-8-2001 why such an order of eviction, arrear of land revenue should not be made.

SCHEDULE

1. Licence deed 17-12-1996 attached with file.
2. H. R. T. C. Hamirpur notice no. 7517 dated 1-2-1999 attached with file.
3. H. R. T. C. Hamirpur notice no. 7953 dated 16-12-1999.

Sd/-
Collector,
Sub-division Barsar,
District Hamirpur (H.P.).

In the Court of Collector, Sub-division Barsar
District Hamirpur (H.P.)

FORM 'A'
(See rule 31)

FORM OF NOTICE UNDER SUB-SECTION (1)
OF SECTION (4) OF THE H. P. PUBLIC PREMISES
AND LAND (EVICTION AND RENT RECOVERY
ACT, 1971.

To

Sh. Nand Lal s/o Sh. Suhru Ram,
Village & P. O. Bhota, Tehsil Barsar,
District Hamirpur (H. P.).

ORDER :

Whereas, I, the undersigned is of opinion on the grounds specified below, that you are in unauthorised occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises :

GROUNDS

- That you are the owner of premises i. e. space for Rehri No. 5 at Bus Stand Bhota.
- That an auction was held on 26-11-1996 for the use and occupation of space of Rehri at Bus Stand Bhota for a period of 11 months and the said space of Rehri was given to you in auction being the highest bidder for a period of 11 months on rent *vide* agreement deed commencing from 10-12-1996 to 9-11-1997 and the rent was agreed to be paid by you at the rate of Rs. 1080/- p. m. and the said licence period was extended second time *w. e. f.* 10-10-1998 to 9-9-1999 at the rate of Rs. 1210/- as monthly rent as licence fee.
- That as per agreement, you remained in use and occupation of the space of Rehri No. 5 *vide* extended licence period 9-9-1999 and was liable to pay license fee for the period from 10-10-1998 to 9-9-1999 at the rate of Rs. 1210/- p. m. which amounts to Rs. 13310/-.
- That you have only paid Rs. 8440/- despite repeated requests and balance outstanding amount of Rs. 4870/- is yet to be paid by you.
- That you are directed to make the payment of Rs. 4870 with interest and in case the said outstanding amount is not paid by you, then it may be recovered as an arrears of land revenue.

Now, therefore, in pursuance of sub-section (1) of section 4 of the Act, I hereby call upon you to show cause on or before 21-8-2001 why such an order of eviction, arrear of land revenue should not be made.

न अवालन श्री बीरा शाह (कागिल, नहरीलवार) वर्षम समाइनी समाइनी
प्रेषम लेणी, बाहापुर, जिला कांगड़ा, (हिन्दी भा.)

नारीय निया । १६४-१००।

ली निको गांग पुल जहां नियारी महाल वारेह, गोरो अमरु,
महाल वारेह ।

विवाह

विवाह वल पुल वकिल, नियारी वारेह, नहरील बाहापुर
— लेणी ।

विवाह—लालीनी गोल लक्ष्मीन लालीनी जाना नहा (पुरा), लालीनी नहा (पुरा), वर्षम ली १००/१०१, जिला लालीनी ११-१०१। ली ।
लालीनी महाल वारेह, लालीनी वरेह, नहरील बाहापुर ।

उपर्युक्त मुकदमा उल्लेखन कराता है कि धनारी विवाह वल को धनालन
होना चाहिए वारेह वर्षम लेणी किंवा गोल वर्षम वह हातिर धनालन
न हो रहे हैं। धनालन होना की पुरां विवाह हो गया है कि धनारी
की लालीनी सामाजिक वर्षमा मेरी ही लेणी ।

शब्द—कुप उपर्युक्त वर्षम वारेह वर्षम लिया जाता है कि उप-
र्युक्त लालीनीगम लियि १६४-१००। जो वारेह १००,००० रुपये हातिर
धनालन लालीनी लेणी मुकदमा करे वर्षम लेणीहातीनी कामेवाही
एक वर्षमा अपने मेरी ही लालीनी । लीगर उत्तर काविले वर्षम लिया
न होगा ।

ग्राम विवाह १७-७-२००१ को मेरे हातोंका न शोहर अवालन
महिले जारी हुआ ।

मीहर ।

श्री बीरा कागिल,
महालीक मुकदमा प्रेषम लेणी,
बाहापुर विलो कांगड़ा, (हिन्दी भा.) ।

न अवालन श्री बीरा कागिल, नहरीलवार वर्षम सहायक समाइनी
प्रेषम लेणी, बाहापुर, जिला कांगड़ा (हिन्दी भा.)

मुकदमा नं।	नारीय वारेह	नारीय निया
६/२०००/NT	१-१५१-१०६९	१७-७-२००१

१. श्री रोमन लाल पुल गोल गांग, २. अग्नीक कुमार,
३. अग्नी कुमार, ४. अग्नीक कुमार पुलार, ५. विगला वेली विधवा
जाली गोल पुल वारो वारी लेणी, (बाहापुर) । ६. गामीक वेली
विधवा गोमेहर, वारो लेणी, नहरील बाहापुर । ग्रामीणग ।

विवाह

१. वेली गांग, २. वर्षम लाल, ३. वर्षम लेणी पुल
समाइनी गोल पुल जहां, ४. गीवारी पुल लीपरी पुल लाल
५. फकीर लाल पुल लाल वार, ६. विनोद कुमार, ७. अमिल कुमार
पुल ८. विगला वेली विधवा वील गोल पुल विधवा,
९. लालीनी कुमार, १०. लल्लीनी कुमार, ११. केलल कला
पुलाम गोमार, १२. उल्ली वेली विधवा गोल गांग,
१३. वेली गोल पुल, १४. वेली गांग, १५. अमरु लेणी,
१६. विमल लाली, १७. जुलाली किलोर पुल, १८. कुलपरी कुमार,
१९. अग्नीक विधवा वेली विधवा विला गोल पुल सजपारी,
वारी लेणी बाहापुर, २०. लालीनी स्वर्ण पुल लालकुर वारी,
२१. विला कुमार पुल, २२. गोलीनी कुमार पुल, २३. लेणी लाला
पुली, २४. लाला कुमारी, २५. स्वर्ण लाला पुली, २६. गोल गोला
विधवा लालकुर वारी, २७. गोली, २८. वेली गांग, २९. वेली गोल
पुल गोल पुल लाली, लाली लेणी, नहरील बाहापुर, जिला
कांगड़ा । ग्रामीणग ।

विवाह—प्रावेता-पत्र वालन भर्ति लक्ष्मीन वाना नं ७८,
लालीनी नं १५७, १५८, १८०, १९०/१, वर्षम नं ७०,

७६१, ७०१, ७०३, जिला ५, जारा १-७०-५६ मुकदमा
लेणी, लालीनी लेणी, नहरील बाहापुर, जिला कांगड़ा ।

उपर्युक्त मुकदमा उल्लेखन वर्षमा मेरी विवाहीनी लक्ष्मीन वाना
होना वारो वारी की धनालन होना चाहिए वारेह वर्षम लाल
किंवा गोल वर्षम वेली विधवा धनालन न हो रहे हैं। धनालन होना
की पुरां विवाह हो गया है कि वर्षमा की वारील सामाजिक

वर्षम के उपर्युक्त वर्षम वारो मनिन लिया जाना है कि
कृतिकर्त्तव्य वारो । जो १८४-१००, जिला १७-८-२००१ की
प्रति १०.०० रुपये हातिर धनालन लाल किलोर लाल लेणी के
वर्षम लेणीहातीनी उल्लेखन कामेवाही धनालरका धनालन से
लाली लाली लाली कोई उत्तर काविले वर्षम लिया जाना है ।

मीहर विवाह १७-७-२००१ की मेरे हातोंका व शोहर अवालन
महिले जारी हुआ ।

मीहर ।

श्री बीरा कागिल,
नहरीलवार वर्षम सहायक समाइनी प्रेषम लेणी,
बाहापुर, नहरील बाहापुर, जिला कांगड़ा
(हिन्दी भा.) ।

व अवालन श्री बीरा कागिल, नहरीलवार, वर्षम सहायक समाइनी
प्रेषम लेणी, बाहापुर, जिला कांगड़ा (हिन्दी भा.)

मुकदमा नं।	नारीय वारेह	नारीय निया
७/२०००/NT	१६४-१००१	१७-७-२००१

१. श्री रीमां लोले पुल लीपरी गोल, वारी लेणीही, नहरील बाहापुर,
२. गामीक वेली विधवा गोमेहर, वारी लेणीही, ३. यशव कुमार,
४. अग्नीक कुमार, ५. अग्नीक कुमार पुलार, ६. विमल वेली विधवा
जाली गोल, वारी लेणीही, नहरील बाहापुर । ग्रामीणग ।

विवाह

१. फकीर वल पुल वर्षम वार, २. अमिल कुमार,
३. विनोद कुमार ४. लालीनी विला वेली विधवा व पुल लीलन लोले
पुल विधवा, ५. उल्लीला उली, विली राम वर्षम, ६. विमल वेली विधवा
जाली गोल, वारी लेणीही, नहरील बाहापुर, जिला कांगड़ा,
नहरील बाहापुर । ग्रामीणग ।

प्रावेता-पत्र वर्षम विवाहन मुमि वाना नं १८७, लालीनी
नं १८१, वर्षम नं १०७, २००८/१४९, जिला १, लालीनी विधवा वेली
विधवा वर्षम लेणी, वारी लेणीही, नहरील बाहापुर, जिला कांगड़ा ।

उपर्युक्त मुकदमा उल्लेखन वाला मेरी उपर्युक्त विवाहीनी
लक्ष्मीन वारी की धनालन होना चाहिए वारेह वर्षम लाली
किंवा गोल वर्षम वेली विधवा धनालन न हो रहे हैं। धनालन होना चाही
पर्याप्त विवाह हो गया है कि धनारी की लालीनी सामाजिक वरीका
से महीने हो लेकीन ।

अन इसे उपर्युक्त विवाहन वारो मनिन दियो जाता है कि
कृतिकर्त्तव्य । जो १८४-१०० वर्षम लेणीही वारेह वर्षम सहायक
धनालन लाली लाली कामेवाही धनालरका धनालन मेरी ही लाली । लीगर
काइ उत्तर काविले वर्षम लियने जाता ।

ग्राम विवाह १-७-२००१ को मेरे हातोंका न शोहर अवालन
महिले जारी हुआ ।

मीहर ।

श्री बीरा कागिल,
नहरीलवार वर्षम सहायक समाइनी प्रेषम लेणी,
बाहापुर, जिला कांगड़ा
(हिन्दी भा.) ।

व प्रदानत श्री बीम भारत कपिल, तहसीलदार एवं सहायक समाहती
प्रथम श्रेणी, शाहपुर, जिला कांगड़ा (हिंग०)

मुकद्दमा नं०	ता० वायरा	ता० पेशी
1/2000/NT	6-2-1998	17-8-2001

1. श्री रोमा नान पुत्र याम राम ५ श्रीमती यामी देवी देवी
विधवा रामेश्वर, ३ अमर कुमार पुत्र जामी राम, २. विमला
देवी विधवा जामी राम, ५. अर्पिन्द कुमार पुत्र जामी राम,
६. अमाल कुमार पुत्र जामी राम, ७. यामी देवी विधवा रामेश्वर
जामी नेरटी, तहसील शाहपुर

बनाम

१. श्री कपिल चन्द्र पुत्र सरन दास, २. अमल कुम, ३. विमल
कुमार पुत्र, ४. विमला देवी विधवा दीनत यम पुत्र विद्याधी,
५. अमीर कुमार पुत्र रामनाथ पुत्र विद्याधी सभी जामी नेरटी, भोजा
शाहपुर, जिला कांगड़ा

प्राप्तिनाम-पत्र नक्सीम भूमि याता नं० ५१, जलोनी
नं० १२३-१२४, खसगा नं० ४६५-४६६, खका
०-२२-४७ हिंग० वायरा भूमि नेरटी, तहसील
शाहपुर।

उपराक्त मुकद्दमा उन्नान बाला भ प्रदानत प्रतिवादीगण फकीर
भन्द बीमी की जवानत हजा द्वारा बार-बार समन जारी किए गए
परन्तु वे हाजिर भवानत न हो रहे हैं। भवानत हजा का पूर्ण
विधान हो गया है कि समनों की तामील साधारण
तरीका से नहीं हो सकती।

प्रतः इस इष्टहार राजपत्र द्वारा यूचित किया जाता है कि
फरीकोप नं० १, २, ३, ४, ५, तिथि 17-8-2001 की प्राप्तः
१.०० बजे हाजिर भवानत आकर देवी देवी मुकद्दमा करें बदूरन
गिरहारी उनके खिलाफ कार्यवाही एक-तरफा भ्रमल में लाई
जाएगी। दोषर कोई उज्जर कार्यविन्दे समाप्त न होगा।

प्राप्त विनाक 1-7-2001 का मेरे हस्ताक्षर व मांहर भवानत
से जारी हुआ।

मोहर।

बी० भारत कपिल,
तहसीलदार एवं सहायक समाहती प्रथम श्रेणी,
शाहपुर, (हिंग० प्र०)।

व प्रदानत श्री बा० भारत कपिल, तहसीलदार एवं सहायक समाहती
प्रथम श्रेणी, शाहपुर, जिला कांगड़ा (हिंग० प्र०)

मुकद्दमा नं० ५/२००१	ता० वायरा	ता० पेशी
5-12-1998		17-8-2001

१. श्री रोषन लाल पुत्र याम राम, २. अर्पिन्द कुमार पुत्र
जामी राम, ३. अमाल कुमार, ४. अर्पिन्द कुमार पुत्र जामी
राम, ५. अमला विमला देवी विधवा जामी राम, ६. यामी देवी
विधवा रामेश्वर, जामी नेरटी, तहसील शाहपुर, जिला कांगड़ा
प्राप्तिगण।

बनाम

१. श्री कफीर चन्द्र पुत्र सरन दास, २. विमल कुमार पुत्र,
३. अमिल कुमार पुत्र, ४. निमला व विमला देवी विधवा जामी
राम, ५. अमीर कुमार पुत्र, ६. बलदीप कुमार पुत्र, ७. कंवन
द्वच पुत्र, ८. उमेंदी देवी विधवा राम नाथ पुत्र विद्याधी, नियमी
नेरटी, भोजा नेरटी, तहसील शाहपुर।

प्राप्तिनाम-पत्र द्वारा करने विधान भूमि याता नं०
१२३, जलोनी नं० २१९ ता २२६, खसगा नं० ३६७,

१२४०/३८०, १२४१/३८०, ३८१-३८२-३८६-८३१-
८३२-८६०, किला ३२, खका २-३८-८० ८० बाका
सुहास डिरटी, भोजा नेरटी।

उपराक्त मुकद्दमा उन्नान बाला भ प्रदानत प्रतिवादीगण फकीर
भन्द बीमी का भवानत हजा द्वारा बार-बार समन जारी किए गए
परन्तु वे हाजिर भवानत न हो रहे हैं। भवानत हजा का पूर्ण
विधान हो गया है कि समनों की तामील साधारण तरीका से
नहीं हो सकती है।

प्रतः इस इष्टहार राजपत्र द्वारा यूचित किया जाता है कि
फरीकोप । ता० ८, तिथि 17-8-2001 का प्राप्तः १०.०० बजे
हाजिर भवानत आकर देवी देवी मुकद्दमा करें बदूरन गिरहारी
उनके खिलाफ कार्यवाही एक-तरफा भ्रमल में लाई जाएगी।
दीगर कोई उज्जर कार्यविन्दे समाप्त न होगा।

आज विनाक 1-7-2001 को मेरे हस्ताक्षर व मांहर भवानत
सहित जारी हुआ।

मोहर।

बी० भारत कपिल,
तहसीलदार एवं समाहती प्रथम श्रेणी,
शाहपुर, जिला कांगड़ा (हिंग० प्र०)।

त्यापात्रग कार्यकारी विद्याधीकारी, धरन, जिला कांगड़ा,
हिमाचल प्रदेश

किस्म मुकद्दमा: जन्म पंजीकरण तारीख पेशी 20-8-2001

श्रीमती शहुंतला देवी पत्नी हीरा सिंह, गांव घृङ, डाकधर व
उप-तहसील धरन, जिला कांगड़ा, हिमाचल प्रदेश प्राप्तिगण।

बनाम

जाम जलता प्राप्तिगण।

चूंकि उपरोक्त वर्णित प्राप्तिया शहुंतला देवा ने भवानत में
उपस्थित होकर जन्म पंजीकरण अधिनियम, १९६८ की ओर धारा १३
(३) के तहत अपनी पुत्री बस्ती जां कि विनाक १-५-१९६४ को
जन्मी है के जन्म की पंजीकृत करवाने वाले प्राप्तिनाम-पत्र प्रस्तुत किया
है। प्राप्तिया के अनुसार वह अपनी पुत्री के जन्म की अवाजनतवश
पंचायत भभिलेख में दर्ज न करवा सकती है। अतः प्रब दर्ज करवाने
हेतु प्राप्तिया प्राप्ति करना चाहीदा है।

प्रतः इस सबना के माध्यम से आम व खास जनता को सूचित
किया जाता है कि यदि किसी को उपरोक्त असंती के जन्म पंजीकरण
वाले कोई आपास्त हो तो वह असालतन या बकालतन इस अवानत में
विनाक 20-8-2001 को अपनी आपास्त पेश कर सकता है इन्यथा
उन्न विनाक को किसी भी किस्म की आपस्तिप्रस्तुत न होने पर
जन्म पंजीकरण के आवश्यकात्ति कर दिए जाएंगे।

प्राप्त विनाक 8-7-2001 को मेरे हस्ताक्षर व मांहर भवानत
द्वारा जारी हुआ।

मोहर।

कार्यकारी विद्याधीकारी, धरन,
जिला कांगड़ा, हिमाचल प्रदेश।

व प्रदानत कार्यकारी विद्याधीकारी, धरन, जिला कांगड़ा,
हिमाचल प्रदेश

किस्म मुकद्दमा: जन्म पंजीकरण तारीख पेशी 20-8-2001

श्रीमती शृंगरामा बेंदी पत्ती हारा मिति, गांव भुज, बाकालन व
नान-तहसील घरान, जिला कांगड़ा, हिमाचल प्रदेश ००१८८। प्रार्थी।

बनाम

आम जनता

प्रार्थनादारण।

बृहि उपरान्त बाणित प्रार्थिया शृंगरामा बेंदी ने अवालन में उपरान्त हाकर जन्म पर्जीकरण प्रार्थनियम, १९६९ की जेर धारा १३ (३) के तहा श्रीमती पुत्री बंजू जो कि विनाक २-३-१९८६ का जन्मी है के जन्म को पंजीकृत करवाने वारे प्रार्थना-नव व्रस्तुत किया है। प्रार्थिया के घनसार वह अपनी पुत्री के जन्म को अवालनवारण प्रार्थना-प्रभिनेत्र में वर्ते न करवा सकी है। अन: अब वर्ते करवाने हेतु प्रार्थना करना भावहीन है।

प्रत: इस धूमना के माध्यम से आम व वासी जनता को धूमन किया जाता है कि वर्ते किसी को उपरान्त मंत्र के जन्म पंजीकरण वारे काँड़ा आपरित हो तो यह असालतन या बकालतन इस अवालन में विनाक २०-८-२००१ का प्रार्थी प्रार्थन धैर कर सकता है। प्रार्थिया उक्त विनाक को विसी भी विस्त को प्रार्थन प्रस्तुत न होने पर आम पंजीकरण के आदेश परिस्त कर दिया जाएगे।

► आज विनाक ९-७-२००१ का मेरे हस्ताक्षर व माहूर अवालन द्वारा जारी हुआ।

मोहर

हस्ताक्षरत/-
कांगड़ी वर्षाधिकारी, भुज,
जिला कांगड़ा, हिमाचल प्रदेश।

ब अवालन उपरान्ताधिकारी (ना०), निचार दिव्यत भावानगर,
जिला किल्नीर, हिमाचल प्रदेश

ब मुकदमा :

श्री वेद प्रकाश पुत्र भगवान वास, आम साकिन काण्डो, तहसील निचार, जिला किल्नीर, हिमाचल प्रदेश।

बनाम

आम जनता

उरक्षास्त जेर धारा १३(३) जन्म एवं मृत्यु पंजीकरण प्रार्थनियम, १९६९।

उपरान्त मुकदमा उनवान वासा में प्रार्थी श्री वेद प्रकाश पुत्र भगवान वास ने इस कार्यालय में गुजारांक की है कि उसके पुत्र साहूल राठोर की जन्म विधि २३-८-१९९७ को हुई है लेकिन उसकी जन्म तिथि प्रार्थना-प्रभिनेत्र में २३-८-१९९६ वर्ते हुई है जो कि गलत है।

अत: आम जनता को वर्तरिता राजवाल सूचित किया जाता है कि अगर किसी को उपरान्त पंजीकरण के बारे काँड़ा उजर व एलगाज हो तो वह विनाक २०-८-२००१ को अवालन व बकालतन इस अवालन में प्रत: १०.०० बजे हाजिर आवे तथा अपने उक्त धैर करे प्रार्थिया उपरोक्त आवेदक के बच्चे की जन्म तिथि प्रार्थना-प्रभिनेत्र में परिवर्तित करने वारे प्रार्थना जारी कर दिया जाएगा।

आज विनाक ४-७-२००१ को मेरे हस्ताक्षर एवं मोहर अवालन से जारी हुआ।

मोहर।

हस्ताक्षरत/-
उप-मध्यालाधिकारी (ना०), निचार
दिव्यत भावानगर, जिला किल्नीर (हि० प्र०)।

ब अवालन उपरान्ताधिकारी (ना०), निचार दिव्यत भावानगर,
जिला किल्नीर, हिमाचल प्रदेश
ब मुकदमा :

श्री हिंग वाम पुत्र श्री धर्म सुख, गाम साकिन पूर्ण, तहसील निचार, जिला किल्नीर (हि० प्र०)।

बनाम

आम जनता

उरक्षास्त जेर धारा १३(३) जन्म एवं मृत्यु पंजीकरण प्रार्थनियम, १९६९।

उपरान्त मुकदमा उनवान वासा में प्रार्थी श्री हिंग वाम पुत्र धर्म सुख ने इस वार्तावाल विनाक की विसी विनाक २०-८-२००१ के अवालन व बकालतन इस अवालन में प्रत: १०.०० बजे हाजिर आवे तथा अपने उजर धैर करे प्रार्थिया उपरोक्त आवेदक के पिता का नाम पंजीकरण प्रभिनेत्र में परिवर्तित करने वारे प्रार्थना जारी किया जाएगा।

अत: आम जनता को वर्तरिता राजवाल शारा शृंगर किया जाता है कि अगर किसी का उपरान्त पंजीकरण के बारे काँड़ा उजर व एलगाज हो तो वह विनाक २०-८-२००१ को अवालन व बकालतन इस अवालन में प्रत: १०.०० बजे हाजिर आवे तथा अपने उक्त धैर करे प्रार्थिया उपरोक्त आवेदक के पिता का नाम पंजीकरण प्रभिनेत्र में परिवर्तित करने वारे प्रार्थना जारी किया जाएगा।

आज विनाक ४-७-२००१ को हमारे हस्ताक्षर व माहूर अवालन से जारी हुआ।

मोहर।

हस्ताक्षरत/-
उप-मध्यालाधिकारी (ना०)
निचार दिव्यत भावानगर,
जिला किल्नीर (हि० प्र०)।

ब अवालन श्री गौतम सिंह गुलेगिया, उप-मध्यालाधिकारी, भीट, उप-तहसील भीट, जिला मण्डी, हिमाचल प्रदेश

श्री तज राम आर्द्ध पुत्रमण श्री हंत राम, निचारी चमारजारी, मुहाल शनसाई, उप-तहसील भीट, जिला मण्डी (हि० प्र०) . . . प्रार्थी।

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. . . प्रस्तावी।

प्रार्थना-नव वराये पंजीकृत किया जाने वसीयतनामा त्रेर धारा ४०/४१ / भारतीय पंजीकरण प्रार्थनियम, १९८०।

श्री तज राम प्रार्थन प्रवण स्वर्णीय श्री हंत राम, निचारी चमार-जारी, मुहाल शनसाई, उप-तहसील भीट, जिला मण्डी (हि० प्र०) ने एक प्रार्थना-नव वराये पंजीकरण प्रार्थनामा जो कि श्री हंत राम पुत्र श्री पंजू राम, निचारी चमार-जारी, मुहाल शनसाई, उप-तहसील भीट, जिला मण्डी (हि० प्र०) ने उक्त श्री तज राम, मुहाल लाल, सरिंगम प्रवण हंत राम उप-तहसील भीट, जिला मण्डी की नाम धरन-राम नियावान करवाया है, पंजीकरण हंत वायर किया है। श्री हंत राम मिति १९-३-२००१ को स्वयं नियावान गया है। जिस वारा मृत्यु प्रमाण-पत्र उक्त वस्तवित्र के साथ लफ है। प्रार्थी ने यह वसीयतनामा इस अवालन में वराये पंजीकरण जेर धारा ४०/४१ भारतीय पंजीकरण प्रार्थनियम, १९८० के तहत पेश किया है।

अत: यद्यपि हस्ताक्षर हमारे हस्ताक्षर व मोहर अवालन से प्राज विनाक १०-७-२००१ को जारी हुआ है।

मोहर।

गौतम सिंह गुलेगिया,
उप-मध्यालाधिकारी, भीट,
उप-तहसील भीट, जिला मण्डी,
हिमाचल प्रदेश।

ब अदालत धी मलोक मह ठाकुर, कार्यकारी विधायिकारी, जोगिन्द्रनगर, जिला मण्डी, हिमाचल प्रदेश

ब अदालत धी काम गिर ठाकुर, कार्यकारी विधायिकारी, निहरी जिला मण्डी (हि० प्र०)

ब मुकदमा :

धी तारा चंद पुल तुलसी राम, निवासी लड्डा, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ।

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दरखास्त जेर धारा १३ (३) जन्म एवं मृत्यु पंजीकरण अधिनियम १९६४

धी तारा चंद पुल धी तुलसी राम, निवासी लड्डा, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ने इस अदालत में एक प्राप्तिनियत-पत्र गुणार्थ है कि उसका दब्बा का जन्म, विनाक २२-७-१९६५ को हुआ है। परन्तु असालतावाला उसकी जन्म तिथि या मृत्यु का विवरण गुम्भा के रिकार्ड में दब्बे न है।

यह नवेंसाधारण का इस दृष्टिहार के माफ़े सुनाते किया जाता है कि इस बारे किसी को कही उचित/एतत्वात हो तो वह विनाक १४-८-२००१ को प्राप्त १०.०० बजे अदालत हृषि विधियां अधिनियम, १९६४ के अन्तर्गत धी तारा चंद पुल एवं मृत्यु पंजीकरण अधिनियम, १९६४ के अन्तर्गत जन्म तिथि दब्बे करने वाला ।

धी तारा चंद पुल धी तुलसी राम, निवासी लड्डा, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) को जन्म तिथि दब्बे करने वाला जारी किया गया ।

मोहर :

मलोक मह ठाकुर,
कार्यकारी विधायिकारी,
तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ।

ब अदालत धी मलोक मह ठाकुर, कार्यकारी विधायिकारी, जोगिन्द्रनगर, जिला मण्डी, हिमाचल प्रदेश

ब मुकदमा :

धी तारा चंद पुल सोमा राम, निवासी ललपान, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ।

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दरखास्त जेर धारा १३ (३) जन्म एवं मृत्यु पंजीकरण अधिनियम, १९६४

धी तिला राम पुल सोमा राम, निवासी ललपान, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ने इस अदालत में एक प्राप्तिनियत-पत्र गुणार्थ है कि उसका दब्बा का जन्म विनाक ३०-८-१९६५ तक हुआ है परन्तु असालतावाला उसकी जन्म तिथि या मृत्यु का विवरण दब्बे में कर्कन १५६५ दब्बे की तरह है, जो गलत है।

यह नवेंसाधारण का इस दृष्टिहार का लाभ लेता है कि इस बारे किसी को कही उचित/एतत्वात हो तो वह विनाक १४-८-२००१ को प्राप्त १०.०० बजे अदालत हृषि विधियां अधिनियम, १९६४ के अन्तर्गत जन्म तिथि दब्बे करने वाला ।

धी तिला राम पुल सोमा राम, निवासी ललपान, तहसील जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) को जन्म तिथि दब्बे करने वाला जारी किया गया ।

मोहर :

मलोक मह ठाकुर,
कार्यकारी विधायिकारी,
जोगिन्द्रनगर, जिला मण्डी (हि० प्र०) ।

ब मुकदमा :

धी उण राम पुल धी आलम, निवासी लणास, बाकधर रकाल, उप-तहसील निहरी, जिला मण्डी, हिमाचल प्रदेश ।

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प्राप्तिनियत जेर धारा १३ (३) जन्म एवं मृत्यु पंजीकरण अधिनियम, १९६४ के अन्तर्गत जन्म तिथि दब्बे करने वाला ।

उपरोक्त मुकदमा में धी उण राम पुल आलम ने विनाक १४-८-२००१ को इस अदालत में प्राप्तिनियत-पत्र पेश किया है कि प्राप्ति उण राम को जन्म तिथि १-१-१९६५ है लेकिन आलम पंचायत विवरण में प्राप्तिनियत-पत्र धी तारा चंद पुल एवं मृत्यु पंजीकरण अधिनियम, १९६४ में उसका नाम असालतावाला दब्बे नहीं करा गया ।

यह भवेंसाधारण को इस दृष्टिहार द्वारा सुनित किया जाता है कि इस बारे किसी को कही उचित/एतत्वात हो तो वह विनाक १४-८-२००१ को प्राप्त १०.०० बजे सुबह मा इसमें पूर्ण असालतावाला विवरण करने वाला असल में लाई जावेगी ।

धी तिला राम पुल धी तारा चंद पुल एवं मृत्यु पंजीकरण अधिनियम, १९६४ के अन्तर्गत जन्म तिथि दब्बे करने वाला ।

मोहर :

कर्म गिर ठाकुर,
कार्यकारी विधायिकारी, निहरी,
जिला मण्डी, हिमाचल प्रदेश ।

ब अदालत धी कर्म गिर ठाकुर, कार्यकारी विधायिकारी, निहरी, उप-तहसील निहरी, जिला मण्डी (हि० प्र०) ।

ब मुकदमा :

धी लीला सिंह पुल शीश, निवासी लम्हट, बाकधर जनता व उप-तहसील निहरी, जिला मण्डी (हि० प्र०) ।

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प्राप्तिनियत जेर धारा १३ (३) जन्म एवं मृत्यु पंजीकरण अधिनियम, १९६४ के अन्तर्गत जन्म तिथि दब्बे करने वाला ।

उपरोक्त मुकदमा में धी लीला सिंह शीश ने विनाक ४-४-२००१ को इस अदालत में प्राप्तिनियत-पत्र पेश किया है कि उसकी नाम असालता कुमारी है कि जन्म तिथि १४-८-१९६५ है लेकिन आलम पंचायत निहरी में उसका नाम असालतावाला दब्बे नहीं करा गया है ।

यह नवेंसाधारण को इस दृष्टिहार द्वारा सुनित किया जाता है कि इस बारे किसी को कही उचित/एतत्वात हो तो वह विनाक १४-८-२००१ को प्राप्त १०.०० बजे मा इसमें पूर्ण असालतावाला विवरण करने वाला असल में लाई जावेगी ।

धी लीला सिंह पुल शीश ने विनाक ४-४-२००१ को इस दृष्टिहार द्वारा सुनित किया जाता है कि इस बारे किसी को कही उचित/एतत्वात हो तो वह विनाक १४-८-२००१ को प्राप्त १०.०० बजे मा इसमें पूर्ण असालतावाला दब्बे करने वाला ।

मोहर :

कर्म गिर ठाकुर,
कार्यकारी विधायिकारी, निहरी,
जिला मण्डी, हिमाचल प्रदेश ।

ब अवालन थी कर्ता मिह डाक्टर, कामोकारी वण्डाधिकारी, निहरी, उप-नहरील निहरी, जिला मण्डी (हिं प्र०)

ब अवालन थी विजय चन्दन, उप-मण्डल वण्डाधिकारी, मुन्हरातगर, जिला मण्डी (हिं प्र०)

- भी हेम काल्प युव गाँविल राम, गाँव मनाहा, डाकघर व उप-नहरील निहरी, जिला मण्डी (हिं प्र०) ।

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प्रार्थना-पत्र बाबत वस्त्री नामा

भी हेम काल्प युव गाँविल राम, गाँव मनाहा, डाकघर व उप-नहरील निहरी ने इस व्यापालय में एक आवेदन-पत्र इस आशय से गजागा है कि उसका आवेदनक नाम हेम काल्प है लेकिन याम पैचायत निहरी के रिकार्ड में वस्त्री म इन्द्र राम लिखा गया है । अत वह पत्रियत रिकार्ड में अपनी नाम को वस्त्री करवाना चाहता है ।

अन इस अवालनी इन्हन्हार द्वारा भवेताधारण को सुनित किया जाता है कि यदि किमा का उत्तम आवेदक के नाम का वस्त्री किए जाने वाला कोई आपानि ही न हो तब विनाक 18-8-2001 दफ्तर मा इसम पूर्व इस अवालन में हो गय आवेदन अपनी भागीची तजे करवा सकता है वायथा आवेदन के नाम की वस्त्री किए जाने वाले आवेदन पत्रियत कर दिए जाएंगे ।

आज विनाक 18-7-2001 को हमारे हस्ताक्षर व माहर अवालन से जारी किया गया ।

मोहर ।

कर्ता मिह डाक्टर,
कामोकारी वण्डाधिकारी,
निहरी, उप-नहरील निहरी, जिला मण्डी (हिं प्र०) ।

ब अवालन थी विजय चन्दन, उप-मण्डल वण्डाधिकारी, मुन्हरातगर, जिला मण्डी (हिं प्र०) ।

ब मुकदमा ।

धीमती श्रीमा देवी विधवा थी राम नाम, निवासी अलमू, डोक-घर दैहर, तहसील मुन्हरातगर, जिला मण्डी (हिं प्र०) ।

बनाम

आम जनता

प्रार्थना पत्र जेर धारा 13(3) जाना एवं पृथ्यु पंजीकरण अधिनियम, 1980 के सन्तर्भ अन्व तिथि वजे करते वाला ।

उपरोक्त मुकदमा में धीमती देवी देवी प्राप्तिया ने विनाक 17-7-2001 को इस अवालन में प्रार्थना-पत्र पेश किया है कि उसका जन्म विनाक 28-8-1980 की इसमें निवासी अलम पर हुआ था लेकिन साथ पर उसकी जन्म तिथि याम पैचायत दैहर में दर्ज नहीं हुई है । अब वजे करने के धारण जारी किये जाना ।

अन आम जनता को इस इन्हन्हार द्वारा युचित किया जाता है कि मति किमी भी अवित को इस वारा कोई उत्तर व एतराज आवी ही तो वह विनाक 20-8-2001 गम्य 10.00 वजे युवत मा दूरग पूर्व अवालन मा वकालत हाजर अवालन होकर पेश करें । आवाज वारा कामोकारी एक तरफा शक्ति मे लाई जावेगी ।

आज विनाक 10-7-2001 को मेरे हस्ताक्षर व माहर अवालन से जारी हुआ ।

मोहर ।

विजय चन्दन,
उप-मण्डल वण्डाधिकारी,
मुन्हरातगर, जिला मण्डी, (हिं प्र०) ।

ब मुकदमा ।

धी खेम चन्द्र युव काल्प राम, निवासी छड़ान, डाकनामा वरागाम, तहसील मुन्हरातगर, जिला मण्डी (हिं प्र०) ।

बनाम

आम जनता

प्रार्थना-पत्र

प्रार्थना-पत्र बर्कलाल जेर धारा 13(3) जाना एवं मन्य पंजीकरण अधिनियम, 1980 के सन्तर्भ जन्म तिथि वजे करने वाला ।

उपरोक्त मुकदमा में धी खेम चन्द्र युव काल्प राम ने विनाक 13-7-2001 को इस अवालन में प्रार्थना-पत्र पेश किया है कि उसके युव अधिनियम का जन्म विनाक 4-1-1980 को हुआ है लेकिन याम पैचायत दिलहा में उसकी जन्म तिथि 4-1-1989 दर्ज है जो कि गलत दर्ज हुई है । वही जन्म तिथि 4-1-1980 वजे करने के आवश्यक जारी किये जावे ।

अत आम जनता को इस इन्हन्हार द्वारा युचित किया जाता है कि मति किमी भी व्यक्ति को इस वारा उत्तर व एतराज आवी ही तो वह विनाक 18-8-2001 गम्य 10.00 वजे यवत मा दूरग पूर्व अवालन मा वकालत हाजर अवालन होकर याम करें अथवा दीप्ति कामोकारी एक तरफा शक्ति मे लाई जावेगी ।

आज विनाक 18-7-2001 का हमारे हस्ताक्षर व माहर अवालन से जारी हुआ है ।

मोहर ।

विजय चन्दन,
उप-मण्डल वण्डाधिकारी,
मुन्हरातगर, जिला मण्डी (हिं प्र०) ।

ब अवालन थी किरण राम शामा, नायव-नहरीलवा (कामोकारी वण्डाधिकारी) नेरवा, जिला खिमला (हिं प्र०) ।

धी राजेश कुमार पत्र थी राम शिह, धारा 13(3) वर्ष, निवासी व उप-नहरील नेरवा, जिला खिमला, हिमाचल प्रदेश ।

धी राजेश कुमार पत्र थी राम शिह, धारा 13(3) वर्ष, निवासी व उप-नहरील नेरवा, जिला खिमला, हिमाचल प्रदेश ने विनाक 17-7-2001 को इस तोर्न-मा के माध्यम से योजन किया जाता है कि मति किमी को इस वारा कोई उत्तर व एतराज आवी ही तो वह विनाक 20-8-2001 को इस कामोकारी में पेश कर देवता है ।

अत आम जनता को इस तोर्न-मा के माध्यम से योजन किया जाता है कि मति किमी को इस वारा कोई उत्तर व एतराज होता है वह अपना उत्तर/एतराज आवी 18-8-2001 को इस कामोकारी में पेश कर देवता है ।

आज विनाक 17-7-2001 को हमारे हस्ताक्षर व माहर अवालन से जारी किया गया ।

मोहर ।

किरण राम शामा
कामोकारी वण्डाधिकारी,
नेरवा, जिला खिमला (हिं प्र०) ।

न अवालत श्री किंगा राम शर्मा, नाथव-नहमीलदार (कार्यकारी व्यवाधिकारी), नेरवा, जिला शिमला (हिंपा)

श्रीमती वाली देवी पत्नी श्री जेर मिह, गांव जवोग, परगना नेरवा, उ-नहमील नेरवा।

बताम

गाम जनना

पार्श्वनाम वराम नाम वर्तमन करने वारे।

श्रीमती वाली देवी पत्नी श्री जेर मिह, गांव जवोग परगना नेरवा, उ-नहमील नेरवा, जिला शिमला (हिंपा) ने इस कार्यालय में प्रार्थना-पत्र पेश किया है कि श्रीमती वाली देवी के पति का नाम शाम कार्यालय वर्तमान इड़ी में गलनी में जेर मिह के, उस जिह पर गाम नवारूर वर्ज किया है, जबकि गाम पंचायत वर्ष से रख इड़ी के परिवार वर्जिस्टर में जेर मिह एवं गामीरुर मही व वर्तमन है।

यह श्रावण जनना को इस नोटिस के माध्यम से सुनित किया जाता है कि यदि किसी को हम वारे कोई उत्तर व प्रत्यरोग हो तो वह गामा उत्तर दिनि 18-8-2001 को इस कार्यालय में पेश कर सकता है।

आज दिनांक 17-7-2001 को हमारे हस्ताक्षर व मीहर महिन श्रावण द्वारा जारी किया गया।

मीहर।

किंगा राम शर्मा,
कार्यकारी व्यवाधिकारी,
नेरवा, जिला शिमला (हिंपा)

व अवालत श्री किंगा राम शर्मा, नाथव-नहमीलदार (कार्यकारी व्यवाधिकारी), जिला शिमला (हिंपा)

श्री प्रत्यक्ष राम गुरु मन्त्र गाम गांव गाविया, परगना नेरवा, उ-नहमील नेरवा।

बताम

गाम जनना

पार्श्वनाम वराम वर्तमन करने जाम निधि।

श्री प्रत्यक्ष राम गुरु मन्त्र गाम गांव गाविया, परगना नेरवा, उ-नहमील नेरवा, जिला शिमला (हिंपा) ने इस कार्यालय में प्रार्थना-पत्र पेश किया है कि उसमें गाम पंचायत इड़ी के परिवार वर्जिस्टर में श्रावणी पत्नी जननी की जाम निधि व जाम वर्ज नहीं कियवाया है, जिसे वर्तमन करवाया जाना है जो उसके प्रमाणिक 8-2-1998 है।

यह श्रावण जनना को इस मोदिस के माध्यम से सुनित किया जाता है कि यदि किसी को हम वारे कोई उत्तर व प्रत्यरोग हो तो वह श्रावणी उत्तर/प्रत्यरोग दिनि 18-8-2001 को इस कार्यालय में पेश कर सकता है।

आज दिनांक 17-7-2001 को हमारे हस्ताक्षर व मीहर महिन श्रावण में जारी किया गया।

मीहर।

किंगा राम शर्मा,
कार्यकारी व्यवाधिकारी,
नेरवा, जिला शिमला (हिंपा)

In the Court of Shri Kirpa Ram Sharma, Executive Magistrate (Nalh Lehalde), Nerwa District Shimla, Himachal Pradesh

In the matter of:

Shri Ganga Ram & Shri Dulat Ram (at present Police Constable) Post Office Nerwa, r/o Purag, Tehsil Kotkhal, District Shimla, Himachal Pradesh

Petitioner.

Fetus

Respondent.

General Public

To

The General Public.

Whereas the above mentioned petitioner has filed an application under section 11(3) of birth and death registration Act, seeking orders to Secretary Gram Panchayat Nerwa, Sub-Tehsil Nerwa, District Shimla, Himachal Pradesh for registration of date of birth and name of Ramla Devi daughter of Ganga Ram, r/o Village Nerwa, Pargana Chandlog, Sub-Tehsil Nerwa, District Shimla, Himachal Pradesh, who born on 12-7-1967.

Hence this proclamation is hereby issued to the general Public with & kins to file their objections, if any in this Court on or before 18-8-2001 either personally or through an authorised agent. Failing which the application shall be heard and allowed in favour of petitioner.

Given under my hand and seal of this Court to day the 17th day of July, 2001.

Seal.

KIRPA RAM SHARMA,
Executive Magistrate (N. T.)
Nerwa, District Shimla,
Himachal Pradesh.)

व अवालत गंगा राम शर्मा, उप-माडल व्यवाधिकारी (पा०), जिला शिमला, हिमाचल प्रदेश।

श्री प्रत्यक्ष राम गुरु श्री प्रत्यक्ष राम, निवासी गांव व डां रामार गांव, नहमील व जिला शिमला, हिमाचल प्रदेश।

बताम

गाम जनना

प्रार्थना-पत्र जेर धारा 13 (3) जल्द पूर्ण पंजीकरण ग्रहितया, 1969 वारत नाम व जाम निधि पंचायत शिमलेह में वर्ज करने वारे।

श्री वर्ज धारा से इस अवालत में एक अविवेश-पत्र हस्त आश्रय के माध्यम द्वारा है कि उसकी बेटी कृष्णी गवाम का नाम तथा जाम निधि 17-3-1969 उसकी प्राप्त पंचायत रामार गांवांश वर्जिल के शिमलेह में वर्ज करने वारे कोई प्राप्ति ही नहीं वह आपस आपनितामा। दिनांक 10-8-2001 तक या उससे पूर्व इस अवालत में हाजिर होकर प्रसन्न कर सकता है यद्यस्थ मस्तिष्ठन गवाम, गाम पंचायत की नाम व जाम निधि उसकी पंचायत के शिमलेह में वर्ज करने के आवेदन प्राप्ति कर दिये जायेंगे।

यह अवालत द्वारा द्वारा सर्वमाध्यम के मुद्दित किया जाता है कि यदि किसी को ही उक्त आवेदक की बेटी का नाम व जाम निधि उसकी प्राप्त पंचायत रामार गांवांश वर्जिल के शिमलेह में वर्ज करने वारे कोई प्राप्ति ही नहीं वह आपस आपनितामा। दिनांक 10-8-2001 तक या उससे पूर्व इस अवालत में हाजिर होकर प्रसन्न कर सकता है यद्यस्थ मस्तिष्ठन गवाम, गाम पंचायत की नाम व जाम निधि उसकी पंचायत के शिमलेह में वर्ज करने के आवेदन प्राप्ति कर दिये जायेंगे।

आज दिनांक 10-7-2001 को मेरे हस्ताक्षर व मीहर महिन श्रावण मतिन जारी हुआ।

मीहर।

गंगा राम शर्मा,
उप-माडल व्यवाधिकारी,
जिला शिमला (पा०) जिला शिमला, हिमाचल प्रदेश।

व अवालत श्री गंगा राम शर्मा, उप-माडल व्यवाधिकारी, जिला शिमला (पा०), जिला शिमला, हिमाचल प्रदेश।

श्री गंगा राम शर्मा श्री धर्म, निवासी धारा जामीन, वारी नहमील गुली, जिला शिमला, हिमाचल प्रदेश।

बताम

गाम जनना

नोटिस बनाम आम जनता ।

श्रीमती सीता देवी पत्नी श्री रमेश कुमार, निवासी आम सुरला, तहसील नाहन, जिला सिरमोर, हिमाचल प्रदेश के इस अदालत में दरखास्त गुजारी है कि उसके पुत्र का सही नाम अजय कुमार है परन्तु गलती से आम पंचायत रिकार्ड में अभित कुमार दर्ज करा दिया गया है जिसकी दृस्ती आम पंचायत सुरला के रिकार्ड में करवाना चाहती है ।

प्रार्थनी श्रीमती सीता देवी पत्नी रमेश कुमार के आवेदन-पत्र पर आम पंचायत एवं विकास अधिकारी, सुरला से रिपोर्ट ली गई जिसने प्रार्थनी के पुत्र का नाम आम पंचायत रिकार्ड में अभित कुमार दर्ज करा दिया गया है जिसकी दृस्ती आम पंचायत सुरला के रिकार्ड में करवाना चाहती है ।

अतः इस नोटिस द्वारा समस्त जनता आम सुरला व प्रार्थना श्रीमती सीता देवी के समस्त रिकेवारों को सचित किया जाता है 'कि यदि किसी को भी श्रीमती सीता देवी पत्नी श्री रमेश कुमार के पुत्र अजय कुमार के नाम की दृस्ती आम पंचायत सुरला के रिकार्ड में करने वाले कोई उजर एनराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे तक अदालत हजा स्थित नाहन में असालतन या बकालतन हाजिर आकर दर्ज करा सकता है । निर्भारित अवधि तक कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्रीमती सीता देवी पर नियमानुसार कार्यवाही अमल में लाई जाएगी ।

आज दिनांक जूलाई 2001 को मेरे हस्ताक्षर एवं कार्यालय मोहर अदालत द्वारा जारी किया गया ।

मोहर

राकेश शर्मा,
उप-मण्डल दण्डाधिकारी,
नाहन, जिला सिरमोर (हि० प्र०) ।

व अदालत श्री राकेश शर्मा, हि० प्र० मे० ०, उप-मण्डल दण्डाधिकारी, नाहन
जिला सिरमोर, हिमाचल प्रदेश

व मुकद्दमा:

श्री बलदेव सिंह पुत्र कल्याण सिंह, निवासी आम कांडो कल्याण, तहसील नाहन, जिला सिरमोर, हिमाचल प्रदेश ।

बनाम

आम जनता

नोटिस बनाम आम जनता ।

श्री बलदेव मिह पुत्र कल्याण सिंह, निवासी आम कांडो कल्याण, तहसील नाहन, जिला सिरमोर, हिमाचल प्रदेश ने इस अदालत में दरखास्त गुजारी है कि उसके पिता का नाम आम पंचायत नावनी (जमटा) के रिकार्ड में प्रताप सिंह दर्ज है जो गलत है । उसके पिता का नाम कल्याण सिंह है जिसकी दृस्ती वह आम पंचायत नावनी के रिकार्ड में करवाना चाहता है ।

प्रार्थी के आवेदन-पत्र पर आम पंचायत एवं विकास अधिकारी, नावनी से रिपोर्ट ली गई जिसने अपने रिपोर्ट में प्रार्थी के पिता का नाम प्रताप सिंह आम पंचायत के रिकार्ड में दर्ज होने की पुष्टि की है ।

अतः इस नोटिस द्वारा समस्त जनता आम कांडो कल्याण व प्रार्थी श्री बलदेव मिह के समस्त रिकेवारों को सूचित किया जाता है कि यदि किसी को भी श्री बलदेव मिह के पिता कल्याण सिंह के नाम की दृस्ती आम पंचायत नावनी के रिकार्ड में करने वाले कोई उजर एनराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे तक अदालत हजा स्थित नाहन में असालतन या बकालतन हाजिर आकर दर्ज करा सकता है । निर्भारित अवधि तक कोई आपत्ति प्राप्त न होने की सुरत में प्रार्थना-श्री हरबंग सिंह पर नियमानुसार कार्यवाही की जाएगी ।

आज दिनांक जूलाई 2001 को मेरे हस्ताक्षर एवं मोहर कार्यालय अदालत द्वारा जारी किया गया ।

मोहर ।

राकेश शर्मा,
उप-मण्डल दण्डाधिकारी,
नाहन, जिला सिरमोर (हि० प्र०) ।

व अदालत डा० एम० पी० सूद, उप मण्डल अधिकारी, पांचटा, जिला सिरमोर (हि० प्र०)

श्री हरबंग सिंह पुत्र प्रेम चन्द, निवासी भगानी, तहसील पांचटा, जिला सिरमोर (हि० प्र०)

बनाम

आम जनता ।

श्री प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री हरबंग सिंह पुत्र प्रेम चन्द, निवासी भगानी, तहसील पांचटा ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसके लड़के कथलजीत चिह्न का जन्म दिनांक 20-5-1998 को हुआ था परन्तु अज्ञानतावश वह उसकी जन्म तिथि आम पंचायत भगानी के रिकार्ड में दर्ज नहीं करा सका है ।

अतः संवर्साधारण को इस इश्तहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर एनराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे अदालत हजा स्थित पांचटा में असालतन या बकालतन हाजिर आकर दर्ज करा सकता है । निर्भारित अवधि के पश्चात कोई आपत्ति प्राप्त न होने की सुरत में प्रार्थना-श्री हरबंग सिंह पर नियमानुसार कार्यवाही की जाएगी ।

आज दिनांक 20-7-2001 को मेरे हस्ताक्षर व कार्यालय मोहर द्वारा जारी किया गया ।

मोहर ।

एम० पी० सूद,
उप-मण्डल दण्डाधिकारी,
पांचटा साहिब, जिला सिरमोर (हि० प्र०) ।

व अदालत डा० एम० पी० सूद, उप-मण्डल दण्डाधिकारी पांचटा साहिब, जिला सिरमोर, हिमाचल प्रदेश

श्रीमती मुरमी देवी पत्नी स्व० शोभा, निवासी गांव सरों, तहसील शिलाई, जिला सिरमोर, हिमाचल प्रदेश ।

बनाम

आम जनता

प्रार्थना पत्र वगाए दरूस्ती नाम ।

उपरोक्त मुकद्दमा आम बाना में श्रीमती सूरमी देवी पत्नी शोभा, निवासी गांव सरों यथा व्यान हास्तिक्या/प्रार्थना-पत्र दिया है कि आम पंचायत कुहट के रिकार्ड में उसके पति व बच्चों के नाम रमेश, वारो एवं सीमा गलती से सिगा राम के नाम पर दर्ज हो गए हैं जबकि उस सदस्य उसके परिवार के हैं । इस गलती को दरूस्त किया जाए ।

अतः आम जनता को वजरिया इश्तहार सूचित किया जाता है कि आगर इस बारे किसी को कोई उजर एनराज हो तो वह अधोहस्ताक्षरी की अदालत में दिनांक 20-8-2001 को प्रातः 10.00 बजे से पूर्व अपने एनराज असालतन या बकालतन पेश करा सकता है । निर्भारित अवधि के पश्चात कोई एनराज प्राप्त न होने की सुरत पर श्रीमती सूरमी देवी पत्री के प्रार्थना-पत्र पर श्रीमती कार्यवाही कर दी जाएगी ।

आज दिनांक 20-7-2001 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी हुआ ।

मोहर ।

एम० पी० सूद,
उप-मण्डल दण्डाधिकारी,
पांचटा साहिब, जिला सिरमोर (हि० प्र०) ।

ब अदालत डा० एम० पी० सूद, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमोर (हि० प्र०)

ब अदालत डा० एम० पी० सूद, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला मिर्मोर, हिमाचल प्रदेश ब मुकदमा :

श्री प्रताप सिंह पुत्र जीत सिंह, निवासी गांव मठार, तहसील पांवटा साहिब, जिला मिर्मोर (हि० प्र०) ।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

मुख्ताक अली पुत्र नसीरुदीन, निवासी पुर्खाला तहसील पांवटा ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसके लड़के एवं पत्नी अमीन व फिरोज का जन्म दिनांक 15-7-2000, 10-1-1980 को हुआ था परन्तु अज्ञानतावश वह उनकी जन्म तिथि ग्राम पंचायत सालवाला के रिकाउंड में दर्ज नहीं करा सका है ।

अतः सर्वसाधारण को इस इश्तहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे अदालत हजा स्थित पांवटा में असालतन या वकालतन हाजिर आकर दर्ज करा सकता है । निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूरत में प्रार्थना-पत्र मुख्ताक अली पर नियमानुसार कार्यवाही की जाएगी ।

आज दिनांक 20-7-2001 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया ।

मोहर ।

एम० पी० सूद,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमोर (हि० प्र०) ।

ब अदालत डा० एम० पी० सूद, उप-मण्डल दण्डाधिकारी, पांवटा साहिब, जिला सिरमोर, हिमाचल प्रदेश

श्री काला राम पुत्र अमर सिंह, निवासी भूपपुर, तहसील पांवटा, जिला सिरमोर, हिमाचल प्रदेश ।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री काला राम पुत्र श्री अमर सिंह, निवासी वार्ड नं० 2, भूपपुर पांवटा साहिब ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसकी लड़की मधु का जन्म दिनांक 3-5-1996 को हुआ था परन्तु अज्ञानतावश वह उनकी जन्म तिथि नगरपालिका परिषद् पांवटा के रिकाउंड में दर्ज नहीं करा सका है ।

अतः सर्वसाधारण को इस इश्तहार के मार्फत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 20-8-2001 को प्रातः 10.00 बजे अदालत हजा स्थित पांवटा में

असालतन्दृश वकालतन हाजिर आकर दर्ज करा सकता है । निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूरत में प्रार्थना-पत्र श्री काला राम पर नियमानुसार कार्यवाही की जाएगी ।

आज दिनांक 20-7-2001 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया ।

मोहर ।

एम० पी० सूद,
उप-मण्डल दण्डाधिकारी,
पांवटा साहिब, जिला सिरमोर (हि० प्र०) ।

बनाम

आम जनता

प्रार्थना-पत्र वराए दृस्ती नाम ।

उपरोक्त मुकदमा आम वाला में श्री प्रताप सिंह पुत्र जीत सिंह निवासी गांव मठार, तहसील पांवटा मध्य हाँस्क्या व्यान/प्रार्थना-पत्र दिया है कि ग्राम पंचायत मर्हीली के रिकाउंड में उसकी पत्नी व लड़का नाम सन्धा देवी व राकेश गलती से उसके भाई चतुर सिंह के नाम पर इन्होंने गाए हैं जबकि उनकी मध्यस्थिति उसके परिवार के हैं । इन गलती को दृस्त किया जाए ।

अतः आम जनता को बजरिया इनहार मूलित किया जाता है कि अगर उपरोक्त बारे किसी को कोई उजर व एतराज हो तो वह अंतर्वासी की अदालत में दिनांक 20-8-2001 को प्रातः 10.00 बजे में पूर्व अपने एतराज असालतन या वकालतन पेश कर सकता है । निर्धारित अवधि पर कोई एतराज प्राप्त न होने की सूरत पर श्री प्रताप सिंह के प्रार्थना-पत्र पर आगामी कार्यवाही कर दी जाएगी ।

आज दिनांक 20-7-2001 को मेरे हस्ताक्षर व कार्यालय मोहर से जारी हुआ ।

मोहर ।

एम० पी० सूद,
उप-मण्डल-दण्डाधिकारी,
पांवटा साहिब, जिला सिरमोर, (हि० प्र०) ।

ब अदालत श्री रजनेश कुमार, कार्यकारी दण्डाधिकारी, कण्डाघाट, जिला सोलन हिमाचल प्रदेश

श्री राम दास पुत्र श्री केशवा राम, निवासी ग्राम गढ़, तहसील कण्डाघाट, जिला सोलन, (हि० प्र०) ... प्रार्थी ।

बनाम

सर्वसाधारण

बनाम

उत्तरवाद ।

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 के अन्तर्गत जन्म तिथि दर्ज करने वारे ।

श्री राम दास पुत्र श्री केशवा राम, निवासी ग्राम गढ़, तहसील कण्डाघाट, जिला सोलन (हि० प्र०) ने इस न्यायालय में शपथ-पत्र अंतर्वासी प्रार्थना-पत्र दिया है कि उसके पुत्र सुशील कुमार की जन्म तिथि 36-5-1998 है कि उसके उपरोक्त गांव में हुआ है लेकिन उसकी जन्म तिथि समय पर ग्राम पंचायत वाकना के अंतिर्लंब में दर्ज नहीं करवाई है । अब दर्ज करने के आदेश जारी किए जावें ।

अतः इस इश्तहार द्वारा सर्वसाधारण एवं आम जनता को सूचित किया जाता है कि यदि किसी भी व्यक्ति/रिसेदार को इस बारे कोई उजर व एतराज हो तो वह दिनांक 21-8-2001 को प्रातः 10.00 बजे सबह या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपने एतराज पेश कर सकता है अत्यथा कार्यवाही एक तरफा अमल में लाई जावेंगी तबा उपरोक्त बच्चे का नाम व जन्म तिथि सम्बन्धित पंचायत के रजिस्ट्रार जन्म तिथि को दर्ज करने वारे आदेश जारी कर दिये जाएंगे ।

आज दिनांक 12-7-2001 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया ।

मोहर ।

रजनेश कुमार,
कार्यकारी दण्डाधिकारी,
कण्डाघाट, जिला सोलन (हि० प्र०) ।

व अदालत श्री नरेन्द्र शर्मा, उप-मण्डल दण्डाधिकारी (ना०), अम्ब
तहसील अम्ब, जिला ऊना (हि०प्र०)।

श्री बिन्दु कुमार सुपुत्र श्री किशोरी लाल, निवासी गगरेट, तहसील
अम्ब, जिला ऊना (हि०प्र०)।

वनाम

आम जनता

प्रार्थना-पत्र जेर आग 13 (3) जन्म एवं मृत्यु पंजीकरण
प्रविनिवन, 1969.

श्री बिन्दु कुमार सुपुत्र श्री किशोरी लाल, निवासी गगरेट, ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसकी नहकी का नाम दिला सोहवा पुरी थी बिन्दु कुमार जन्म दिनांक 7-6-1995 को हुआ था परन्तु अज्ञानतावज वह उसकी जन्म तिथि नगर पंचाबत गगरेट के रिकाई में दर्ज नहीं करा सका है।

अतः सर्वानाशारण को इस इच्छाहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई एतराज हो तो वह दिनांक 18-8-2001 को प्राप्त: 10.00 बजे अदालत हजा स्थित अवध में असालनन प्रयत्न वकालतन हाजिर आकर अपनी स्थिति/एतराज प्रस्तुत कर सकता है। निवित तिथि पर कोई एतराज प्राप्त न होने को सूरत में प्रार्थना-पत्र श्री बिन्दु कुमार पर नियमानुसार कार्यवाही कर दी जाएगी।

आज दिनांक 11-7-2001 को हमारे हस्ताक्षर व मोहर अदालत द्वारा जारी हुए।

मोहर।

नरेन्द्र शर्मा,
उप-मण्डलाधिकारी (ना०), अम्ब,
तहसील अम्ब, जिला ऊना, हिमाचल प्रदेश।

व अदालत श्री नरेन्द्र शर्मा, उप-मण्डल दण्डाधिकारी (ना०) अम्ब,
जिला ऊना (हि०प्र०)।

श्री कंस राज पुत्र श्री मंगल दाम, निवासी मैडी, तहसील अम्ब,
जिला ऊना (हि०प्र०)।

वनाम

आम जनता

विषय—प्रार्थना-पत्र जेर आग 13 (3) जन्म एवं मृत्यु पंजीकरण
प्रविनिवन, 1969.

श्री कंस राज पुत्र श्री मंगल दाम, निवासी मैडी ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसके लड़के का नाम कर्म चन्द्र पुत्र श्री कंस राज का जन्म दिनांक 22-3-1995 को हुआ था परन्तु अज्ञानता-वश वह उसकी जन्म तिथि प्राप्त पंचायत के रिकाई मैडी में दर्ज नहीं करा सका है।

अतः सर्वानाशारण को इस इच्छाहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 18-8-2001 को प्राप्त: 10.00 बजे अदालत हजा स्थित अवध में असालनन या वकालतन हाजिर आकर अपनी एतराज दर्ज करा सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूरत में प्रार्थना-पत्र श्री कंस राज पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 11-7-2001 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुए।

मोहर।

नरेन्द्र शर्मा,
उप-मण्डल दण्डाधिकारी (ना०),
अम्ब, तहसील अम्ब, जिला ऊना,
हिमाचल प्रदेश।

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

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भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

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